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LAWS

PASSED AT

THE ELEVENTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE
ON TUESDAY, THE FIFTH DAY OF JANUARY, A. D. 1909,
AND CONCLUDING MARCH FIFTH, 1909

BISMARCK, N. D.
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1909

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Secretary of State of the State of
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AUTHENTICATION.

STATE OF NORTH DAKOTA,
Secretary's Office, Bismarck.

I, Alfred Blaisdell, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passsed at the Eleventh Session of the Legislative Assembly of the State of North Dakota, beginning January 5th, 1909, and terminating March 5th, 1909, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set may hand and affixed the Great Seal of the State of North Dakota, this first day of June, 1909.

ALFRED BLAISDELL,
Secretary of State.

[SEAL]

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ACTIONS

CHAPTER 1.

[S. B. No. 278—Purcell]

PRELIMINARY EXAMINATION.

AN ACT to Amend Section 9758 of the Revised Codes of the State of North Dakota, Relating to Preliminary Examinations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9758 of the revised codes of the state of North Dakota is amended so as to read as follows:

§ 9758. MAGISTRATE'S DUTY. TESTIMONY MAY BE TAKEN.] When the defendant is brought before a magistrate upon an arrest, either with or without a warrant, on a charge of having committed a public offense, the magistrate must immediately inform him of the charge against him, and of his right to the aid of counsel in every stage of the proceedings, and also his right to waive an examination before any further proceedings are had; and in any case, when the accused waives such examination, the prosecuting attorney may cause the testimony of any witness or witnesses to be taken in writing, as provided by law with the same force and effect as if such examination had not been waived and such testimony shall be returned by such magistrate to the district court of his county as in other cases.

§ 2. EMERGENCY.] Whereas, there is now no provision of law for the taking of the testimony of any witness when a preliminary examination is waived by one accused of crime and the taking of such testimony and its perpetuation may be important to the administration of justice, an emergency exists and this act shall take effect from and after its passage and approval.

Approved March 15, 1909.

CHAPTER 2.

[H. B. No. 30—Chatfield]

PUBLISHING SUMMONS IN JUSTICE COURT.

AN ACT Amending Section 8366 of the Revised Codes of North Dakota for 1905, Relating to Service by Publication of Summons in Justice Courts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8366 of the revised codes of North Dakota for 1905, is amended to read as follows:

§ 8366. SERVICE BY PUBLICATION.] In an action to foreclose or enforce a lien upon chattels or trespassing animals, or an action in which an attachment has been levied upon personal property of the defendant within the county, or an action in which a garnishment summons has been issued and served within the county and the garnishee therein has disclosed property or money in his possession or under his control due or belonging to defendant, if the summons is returned not served, the plaintiff may at the time therein specified for answering apply for and receive a second summons directing the defendant to appear and answer at a specified time not less than twenty-five nor more than thirty days from the date thereof. Such application must be made upon a verified complaint alleging the lien or levy or garnishment proceedings relied on and demanding that the property be applied to the satisfaction of his claim, and must be supported by the affidavit, stating that to the best knowledge, information and belief of the person making it, personal service of the summons cannot be made upon the defendant within the state and stating his postoffice address or the fact that the same is not known. The summons must be substantially in the following form, filling blanks according to the facts:

State of North Dakota, } ss. In Justice Court,

County of } Before
Justice of the Peace

C. D., Plaintiff

vs.

E. F., Defendant

The State of North Dakota to said Defendant:

By this second summons herein you are directed to appear before me at my office in (designating the place)

at o'clock M. of the day of 19.... there to answer the complaint of C. D. against you, alleging (here give a sufficient statement of the cause of action to apprise the defendant of the nature of the plaintiff's claim and the particular property in question), and demanding (here state the demand); and you are notified that unless you so appear and answer the plaintiff will take judgment against you accordingly.

Given this day of 19.....

(Official signature of the justice.)

The justice shall indorse on the summons a direction to the effect that it may be served by publication in some newspaper of the county, naming it, or in some newspaper elsewhere in the state if none is published in the county. Service of the summons may be made by publication of the same in one issue of said newspaper each week for three successive weeks, the last publication being at least three days before the time at which the defendant is directed to appear, and by forthwith mailing a copy of the summons postage paid and directed to the defendant at his postoffice address, unless it is stated in the affidavit that his address is unknown. But personal service of the summons on the defendant at any place in or out of the state, if made at least ten days before the time at which he is directed to answer, is equivalent to service by publication and mailing. The proof of service must be made by affidavit of some person having knowledge of the facts.

Approved February 20, 1909.

CHAPTER 3.

[S. B. No. 227—Pierce]

REPLY IN CIVIL ACTIONS.

AN ACT to Amend Section 7527 of the Code of 1905, Relating to Actions to Determine Conflicting Claims to Real Property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7527 of the revised codes of the state of North Dakota for 1905 be, and the same is hereby amended and re-enacted so as to read as follows:

§ 7527. REPLY, WHAT IT MAY CONTAIN. RELIEF.] No reply shall be necessary on the part of the plaintiff, except when the defendant in his answer claims a lien or encumbrance upon the property which, prior to the commencement of the action, was barred by the statutes of limitation, or which shall have been discharged in bankruptcy, or which constitutes only a cloud, the plaintiff may reply setting up such defenses and avail himself of the benefit there-

of: and in all cases when the plaintiff has made permanent improvements on the property in good faith, while in possession under color of title, he may recover a reasonable value thereof as against the defendant recovering the property, when the reply shall allege the facts, stating particularly the value of the improvements, the value of the property, and demand appropriate relief. The reply shall be served on such defendant and filed with the clerk within twenty days after the service of his answer.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 15, 1909.

CHAPTER 4.

[S. B. No. 173—Irwin]

CONTINUANCE OF ACTIONS.

AN ACT to Amend Section 7329 of the Revised Codes of 1905, Relating to Cases When Continued.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7329 of the revised codes of 1905 is amended to read as follows:

§ 7329. CASES, WHEN CONTINUED.] In all actions, civil or criminal, pending in any court of this state at any time when the legislature is in session, it shall be a sufficient cause for a continuance of said suit to a succeeding term of said court fixed by law if it shall appear to the court by affidavit of the attorney that any party applying for such continuance, or any attorney, solicitor, or counsel of such party is a member of either house of the legislature and in actual attendance on the session of the same at the beginning of the term or at the time said suit is called for trial and that the attendance of such party, attorney, solicitor, or counsel in court is necessary to the fair and proper trial of such suit, and on the filing of such affidavit the court must continue such suit to the next succeeding term of said court fixed by law. Such affidavit shall be sufficient if made at any time during the session of the legislature and before the suit is called for trial showing that at the time of making said affidavit such party, attorney, solicitor or counsel is in actual attendance upon such session of the legislature and said cause shall not be tried over the objection of the party obtaining such continuance at any term of court called, held or convened within sixty days after the adjournment of the legislature.

§ 2. EMERGENCY.] Whereas, an emergency exists, therefore this act shall be in force and effect from and after its passage.

Approved March 5, 1909.

CHAPTER 5.

[H. B. No. 95—Skulason]

COSTS ON APPEAL.

AN ACT to Amend Section 7182 of the Revised Codes of 1905, Relating to Costs on Appeal From Justice Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7182 of the revised codes of 1905 is hereby amended to read as follows:

§ 7182. ON APPEAL FROM JUSTICE.] Costs must be allowed to the prevailing party in judgments rendered on appeal from justice court in all cases, including his taxable costs in the court below.

Approved March 15, 1909.

APPORTIONMENT

CHAPTER 6.

[H. B. No. 143—Senour]

SENATORIAL AND REPRESENTATIVE DISTRICTS.

AN ACT to Redistrict the State of North Dakota Into Senatorial Districts and Apportion the Senators and Representatives Therein.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NUMBER OF DISTRICTS.] Until otherwise provided by law under the terms of the constitution, the legislative assembly of the state of North Dakota shall consist of forty-nine senators and one hundred three representatives, and the senatorial and representative districts of the state shall be formed, and the senators and representatives be apportioned as follows:

The first district shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and all towns, villages and cities therein, and be entitled to one senator and two representatives.

The second district shall consist of the townships of St. Thomas, city of St. Thomas, Crystal, city of Crystal, Hamilton, town of Hamilton, Cavalier, city of Cavalier, village of Hensel, Advance, LaMoure, Akra, Beaulieu, Thingvalla, Gardar, Park, Elora, and Lodema, in the county of Pembina, and be entitled to one senator and one representative.

The third district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Opps, Prairie Centre, Fertile, city of Park River, village of Edinburg, village of Conway, village of Hoople, village of Pisek, village of Adams, Fairdale, Glenwood, Kinloss, Shepherd, Sauter and Dewey, in the county of Walsh, and be entitled to one senator and three representatives.

The fourth district shall consist of the townships of Forest River, village of Forest River, Walsh Centre, Grafton, city of Grafton, Farmington, Ardoch, village of Ardoch, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, city of Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and two representatives.

The fifth district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, city of Northwood, Lind, Grace, Larimore, city of Larimore, Elm Grove, Agnes, Inkster, city of Inkster, Elkmount, Plymouth, Niagara, Moraine, Logan Centre and Loretta, in the county of Grand Forks, and be entitled to one senator and two representatives.

The sixth district shall consist of the third, fourth, fifth and sixth wards of the city of Grand Forks, as now constituted, and the townships of Faulkner, Harvey, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville and Levant, in the county of Grand Forks, and be entitled to one senator and two representatives.

The seventh district shall consist of the first, second and seventh wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union, Washington, and the first and second wards in the city of Reynolds, in the county of Grand Forks, and be entitled to one senator and two representatives.

The eighth district shall consist of the county of Traill, and be entitled to one senator and three representatives.

The ninth district shall consist of the township of Fargo and the city of Fargo, in the county of Cass, and the fractional township number one hundred and thirty-nine, range forty-eight, and be entitled to one senator and three representatives.

The tenth district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, village of Mapleton, Warren, Normania, Bell, Harmony, Durbin, Addison, Davenport, village of Davenport, Casselton, and the city of Casselton, in the county of Cass, and be entitled to one senator and two representatives.

The eleventh district shall consist of the townships of Gunkle, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Empire, Wheatland, Gill, Walburg, Watson, Page,

Rich, Ayr, Buffalo, the village of Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and two representatives.

The twelfth district shall consist of the townships of Eagle, Abercrombie, village of Abercrombie, Dwight, Ibsen, Centre, Mooreton, Brandenburg, village of Great Bend, Summit, Fairmount, village of Fairmount, DeVillo, Lamars, Waldo, Greendale, and the city of Wahpeton, in the county of Richland, and be entitled to one senator and two representatives.

The thirteenth district shall consist of the county of Sargent, and be entitled to one senator and one representative.

The fourteenth district shall consist of the county of Ransom, and be entitled to one senator and two representatives.

The fifteenth district shall consist of the townships of Baldwin, Dazey, Laketown, Pierce, Uxbridge, Edna, Rogers, Grand Prairie, Minnie Lake, Anderson, Hobart, Potter, village of Dazey, village of Wimbledon, village of Sanborn, city of Valley City, township one hundred forty-three, range fifty-six, township one hundred forty-three, range fifty-eight, township one hundred forty-two, range fifty-eight, township one hundred forty-one, range fifty-eight, township one hundred forty-one, range fifty-nine, township one hundred forty-one, range sixty-one, and township one hundred forty, range fifty-eight, in the county of Barnes, and shall be entitled to one senator and two representatives.

The sixteenth district shall consist of the counties of Steele and Griggs, and be entitled to one senator and three representatives.

The seventeenth district shall consist of the county of Nelson, and be entitled to one senator and two representatives.

The eighteenth district shall consist of the townships of Cypress, Byron, Linden, Dresden, Langdon, city of Langdon, South Dresden, Grey, Glenila, Huron, Moscow, Waterloo, Elgin, Perry, Billings, Nekoma, Storlie, Banner, Trier, Gordon, Henderson, Nekoma village, Sievert, Sarles village, Bruce, Mount Carmel, and Minto, in Cavalier county, and shall be entitled to one senator and two representatives.

The nineteenth district shall consist of the county of Rolette, and be entitled to one senator and one representative.

The twentieth district shall consist of the county of Benson and be entitled to one senator and two representatives.

The twenty-first district shall consist of the county of Ramsey, and be entitled to one senator and three representatives.

The twenty-second district shall consist of the county of Towner, and be entitled to one senator and two representatives.

The twenty-third district shall consist of the county of Stutsman, and be entitled to one senator and four representatives.

The twenty-fourth district shall consist of the county of La-Moure, and be entitled to one senator and two representatives.

The twenty-fifth district shall consist of the county of Dickey, and be entitled to one senator and one representative.

The twenty-sixth district shall consist of the counties of Emmons and Kidder, and be entitled to one senator and two representatives.

The twenty-seventh district shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The twenty-eighth district shall consist of all that part of the county of Bottineau lying east of the Mouse River, and be entitled to one senator and two representatives.

The twenty-ninth district shall consist of the city of Minot, and townships 151, 152, 153, 154, 155, 156, 157 and 158, north of ranges 81, 82, 83, 84, 85, 86 and 87, west of the fifth principal meridian, and be entitled to one senator and four representatives.

The thirtieth district shall consist of the county of Morton, and be entitled to one senator and three representatives.

The thirty-first district shall consist of the county of Stark, and be entitled to one senator and three representatives.

The thirty-second district shall consist of the counties of Eddy and Foster, and be entitled to one senator and two representatives.

The thirty-third district shall consist of the county of Wells, and be entitled to one senator and two representatives.

The thirty-fourth district shall consist of townships 155, 156, 157 and 158, north, range 75 west, and also townships 155, 156, 157, 158 and 159, north, ranges 76, 77, 78, 79 and 80, in the county of McHenry, and be entitled to one senator and two representatives.

The thirty-fifth district shall consist of the county of Sheridan and shall be entitled to one senator and one representative.

The thirty-sixth district shall consist of the counties of McIntosh and Logan, and shall be entitled to one senator and two representatives.

The thirty-seventh district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garbourg, Freeman, West End, Homestead, Grafton, Antelope, Danton, Garfield, Dexter, Wyndmere, village of Wyndmere, Balford, Liberty, Brightwood, town of Hankinson, Elma, Durr, city of Lidgerwood, Moran and Grant, in the county of Richland, and be entitled to one senator and two representatives.

The thirty-eighth district shall consist of the townships of Weimer, Noltimeir, Alta, Oriska, Springvale, Cuba, Green, Herman, Mansfield, Meadowlake, Svea, Scandia, Norman, Binghamton, Raritan, Thordenskjold, Oakville, Spring Creek, Rosebud, Greenland, village of Litchville, village of Nome, township one hundred forty, range sixty-one, township one hundred thirty-nine, range fifty-eight, and township one hundred thirty-eight, range fifty-eight,

in the county of Barnes, and be entitled to one senator and one representative.

The thirty-ninth district shall consist of the counties of Billings and Bowman and shall be entitled to one senator and three representatives.

The fortieth district shall consist of the townships of Hope, Freemont, Olga, Loam, Hay, Harvey, Manilla, Easby, Alma, East Alma, Montrose, Osford, village of Milton and Osnabrock village, in the county of Cavalier, and be entitled to one senator and one representative.

The forty-first district shall consist of the counties of Williams and McKenzie, and shall be entitled to one senator and two representatives.

The forty-second district shall consist of the county of Pierce, and shall be entitled to one senator and two representatives.

The forty-third district shall consist of townships 159, 160, 161, 162, 163, and 164, north, of ranges 84, 85, 86, 87, 88, 89, 90, 91, 92, 93 and 94, west, in the county of Ward, and shall be entitled to one senator and three representatives.

The forty-fourth district shall consist of the county of Mountraille and be entitled to one senator and two representatives.

The forty-fifth district shall consist of townships 151, 152, 153 and 154, north, of ranges 75, 76, 77, 78, 79 and 80, in the county of McHenry, and shall be entitled to one senator and one representative.

The forty-sixth district shall consist of the following townships and fractional townships: Township 143, north of ranges 80 and 81, west, and township 144, north of ranges 80, 81, 82, 83 and 84 west; townships 145 and 146, north, of ranges 79, 80, 81, 82, 83, and 84 west; townships 147 and 148, north, of ranges 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, west; and townships 149 and 150, north, of ranges 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, west, and the county of McLean, and shall be entitled to one senator and two representatives.

The forty-seventh district shall consist of all that part of Bottineau county lying west of the Souris river, and shall be entitled to one senator and one representative.

The forty-eighth district shall consist of the counties of Mercer, Oliver and Dunn, and be entitled to one senator and three representatives.

The forty-ninth district shall consist of the counties of Hettinger and Adams, and be entitled to one senator and two representatives.

Approved March 13, 1909.

APPROPRIATIONS

CHAPTER 7.

[S. B. No. 147—LaMoure]

CAPITOL MAINTENANCE.

AN ACT to Amend Section 393 of the Revised Codes of 1905, as Amended by Chapter 10, Laws of 1907, Providing for an Appropriation for Supplies for the Capitol Building, Executive Mansion and the Public Grounds and Parks Connected Therewith, and for Necessary Repairs Upon the Capitol Building and Executive Mansion, and Providing a New Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 393 of the revised codes of 1905, as amended by chapter 10, laws of 1907, is hereby amended to read as follows:

Sec. 393. POWERS OF BOARD OF TRUSTEES. APPROPRIATION.] The board of trustees of public property is authorized and empowered to provide all necessary furniture, fuel, lights, stationery, postage, express, freight, drayage, and all other necessary supplies for the state offices and executive mansion and the public grounds and parks connected therewith, and to make all necessary repairs upon the capitol building and executive mansion, and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of thirty-seven thousand five hundred dollars, or so much thereof as may be necessary to carry out the provisions of this section, and the state auditor is empowered to draw his warrant for such sums as shall be found due on account of claims or accounts against such appropriation, upon approval thereof by the state auditing board, and upon said approval the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, the board of trustees of public property, by a communication in writing, recommend the passage of the above appropriation and the sum so asked should be available before July 1, 1909, therefore an emergency exists, and this act shall be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 8.

[S. B. No. 145—LaMoure]

RELIEF OF GEORGE MURRAY.

AN ACT Appropriating Money to Compensate George Murray for Salary Due and Sundry Items of Expense Incurred by Said George Murray, While Acting as Temperance Commissioner During the Months of April and May, in the Year 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of four hundred seventy dollars and seventy cents to George Murray for salary and actual expenses incurred during the months of April and May, in the year 1907, while acting as temperance commissioner of North Dakota, as per itemized bill now on file in the office of the state auditor, and the said state auditor is hereby empowered to draw his warrant on the state treasurer for said above mentioned sum.

Approved March 3, 1909.

CHAPTER 9.

[S. B. No. 68—Strom]

MAYVILLE NORMAL SCHOOL.

AN ACT Making Appropriation for Completing and Furnishing Dormitory, for Establishing and Changing Heating Plant, for Grounds and Walks and Other Equipment for the State Normal School at Mayville, and for Maintenance.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated, out of the money in the state treasury, not otherwise appropriated, for the state normal school at Mayville, sums of money as follows:

For completing and furnishing the new dormitory.....	$ 35,000
For changing the heating system in the main building to a vacuum system	3,000
For a separate heating plant	15,000
For grounds and walks	2,500
For library books	1,000
For gymnasium apparatus	500
For manual training and domestic science	500

For furniture and fixtures for main building 1,500

Total $ 59,000

§ 2. EMERGENCY.] Whereas, an emergency exists in that a portion of the money hereby appropriated is urgently needed for immediate use, therefore this act shall take effect and be in force from and after its passage.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 68, appropriating money for improvement of the normal school at Mayville, with my approval except as to the following items:

For grounds and walks $ 2,500
For library books 1,000

I disapprove of these items for the reason that the appropriations exceed the revenue.

JOHN BURKE,
Governor.

CHAPTER 10.

[H. B. No. 369—Brusletten]

FORT ABERCROMBIE.

AN ACT to Appropriate a Sum of Money for the Maintenance and Conservation of the State Park at Fort Abercrombie.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of five hundred dollars or as much thereof as may be necessary to be expended by the custodian of the state park at Fort Abercrombie, in the care, custody and conservation of said park.

Approved March 20, 1909.

CHAPTER 11.

[S. B. No. 73—McArthur]

SCHOOL OF FORESTRY.

AN ACT to Provide for the Making of Improvements at the North Dakota School of Forestry, to Assist in the Maintenance Thereof and for Other Purposes and Making Appropriations Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] For making improvements at the state school of forestry at Bottineau, to assist in the maintenance thereof and for other purposes, the following sums of money are hereby appropriated, from any funds in the state treasury not otherwise appropriated, viz:

Finishing and furnishing assembly room and more class rooms in the present building	$ 8,000
For library books and laboratory apparatus	1,500
To erect and furnish green house	3,000
For improvement of grounds	1,500
For maintenance	6,000

§ 2. EMERGENCY.] Whereas, some of the sums hereby appropriated should be available before July 1, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1909.

CHAPTER 12.

[S. B. No. 70—Baker]

SCHOOL FOR THE DEAF.

AN ACT to Provide for New Buildings for the School for the Deaf and Dumb, Located at Devils Lake, North Dakota, and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars for new buildings and improvements of the school for the deaf and dumb of North Dakota at Devils Lake:

For school building, gymnasium and assembly hall.....	$.17,000
For a separate hospital building	8,000
Total	$ 25,000

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made shall not begin before July 1, and the funds hereby appropriated for the erection of new buildings will be needed before that time; therefore this act shall take effect immediately after its passage and approval.

Approved March 20, 1909.

CHAPTER 13.

[S. B. No. 126—Ramsett]

VALLEY CITY NORMAL SCHOOL.

AN ACT Making Appropriation for the Valley City Normal School, Located in Valley City, Barnes County, North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] The sum of one hundred and thirty-five thousand three hundred and seventy-five dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated for maintenance for two years and for permanent improvements and furnishings for the normal school at Valley City, as follows:

To erect a building for a heating plant, including the stack for the same, to equip and furnish the same and to furnish and install a system of ventilation.....	$ 30,000
For maintenance of the institution for two years.....	40,000
To complete the auditorium building	7,000
To pay the mortgage on property purchased for dormitory purposes, with interest	2,375
For library equipment and books.....	1,000
For furniture for auditorium	1,500
For apparatus, museum equipment and cabinets.....	2,000
For the erection and equipment of the main building of a ladies' dormitory	50,000
To build and equip a barn	1,500
Total	$135,375

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 126, being an act making appropriations for the normal school at Valley City, with my approval, except as to the item:

For barn $ 1,500

I disapprove of this item for the reason that the appropriations exceed the revenue of the state.

JOHN BURKE,
Governor.

CHAPTER 14.

SENATE EMPLOYES.

[S. B. No. 243—Leutz]

AN ACT Making an Appropriation to Pay P. O. Fossom, George Platzer, janitors; A. Glorvick, messenger; and C. J. Hutchinson, Clerk, of the Tenth Legislative Assembly, for Services Rendered During that Session.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of three hundred and twenty dollars for services rendered by P. O. Fossom, George Platzer, janitors; A. Glorvick, messenger; and C. J. Hutchinson, clerk; in accordance with the resolution passed in the senate March 5, 1907, allowing each of the above employes two dollars per day in addition to their salary for extra work during the last forty days of that session.

Approved March 15, 1909.

CHAPTER 15.

[H. B. No. 315—Senour]

RELIEF OF F. M. BAKER.

AN ACT Appropriating to F. M. Baker, Assistant State's Attorney of Stark County, Four Hundred Fifty Dollars Attorney's Fees for Services Rendered in the Unorganized Territory Attached to Stark County for Judicial Purposes During the Years 1905, 1906 and 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of

four hundred and fifty dollars to F. M. Baker, assistant state's attorney of Stark county, North Dakota, as fees for services performed in the prosecution of criminal cases arising in the unorganized territory attached to Stark county for judicial purposes during the years 1905, 1906, 1907.

Approved March 16, 1909.

CHAPTER 16.

[S. B. No. 104—Walton]

INDUSTRIAL SCHOOL.

AN ACT to Provide for the Maintenance of the State Normal-Industrial School Located at Ellendale and for Making Necessary Improvements and Providing Appropriations Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] For the maintenance of the state normal-industrial school and for making necessary improvements to the same for the period commencing April 1, 1909, and ending March 31, 1911, there is hereby appropriated out of the state treasury from any monies not otherwise appropriated the sum of fifty-one thousand five hundred dollars as follows:

For salaries	$ 25,000
For power house and electric light equipment	11,500
For library	15,000

§ 2. EMERGENCY.] Whereas, in the opinion of the legislative assembly an emergency exists, therefore this act shall take effect and be in force from and after its approval.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 104, an act to provide for the maintenance of the state normal and industrial school at Ellendale, with my approval thereon, except as to the item for library fifteen thousand dollars, which item is disapproved for the reason that the appropriations made by the last legislative assembly exceed the revenues of the state.

JOHN BURKE,
Governor.

CHAPTER 17.

[S. B. No. 242—Leutz]

REFORM SCHOOL.

AN ACT Making Appropriations for the Current and Contingent Expenses of the State Reform School of North Dakota, and for Making Permanent Improvements Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the monies in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the state reform school at Mandan:

For building and equipping a building for girls	$10,000
For farm buildings, cow stables, silo, hog house, root cellar and green house	3,000
Completing the equipment of manual training and fitting up assembly room	2,000
Additional land	1,050
Repairs	800
Total	$16,850

§ 2. EMERGENCY.] Whereas, an emergency exists in that a portion of the money hereby appropriated is urgently needed for immediate use, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1909.

CHAPTER 18.

[S. B. No. 56—Cashel]

INSTITUTION FOR FEEBLE MINDED.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses and for Permanent Improvements for the Institution for Feeble Minded, at Grafton.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any fund in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of, and

for permanent improvements to the institution for the feeble minded at Grafton for the period beginning March 1, 1909, and ending March 1, 1911, the sum of seventy-eight thousand eight hundred fifty dollars, or as much thereof as may be necessary, as follows:

For maintenance	$ 5,000
For employees' wages, including officers' salaries	29,000
For fuel and lights	10,000
For training school supplies and amusements	800
For incidental expenses	1,000
For drugs, medicines, etc.	800
For repairs	1,100
For plumbing	250
For beds and bedding	1,000
For furniture	1,000
For electrical supplies and repairs	300
For supplies for engine room	500
For laundry machinery and repairs	500
For paints and painting	1,000
For farm implements and vehicles	1,000
For stock	500
For improvements to grounds	1,000
For a hospital building	20,000
For a new farm house	2,500
For addition to barn	1,600
Total	$ 78,850

§ 2. EMERGENCY.] An emergency exists in this, that the biennial period for which this appropriation is made will begin July 1, 1909, and the funds hereby appropriated will be needed before that time, therefore this act shall take effect from and after its passage and approval.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 56 with my approval, except as to the items:

For improvement of grounds	$ 1,000
For a new farm house	2,500
For addition to barn	1,600

I disapprove of these items for the reason that the appropriations exceed the revenue.

JOHN BURKE,
Governor.

CHAPTER 19.

[S. B. No. 81—Welch]

PENITENTIARY.

AN ACT Making Appropriation for the Current and Contingent Expenses of the State Penitentiary, and for Making Permanent Improvements and Additions Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the moneys in the state treasury, not otherwise appropriated, for paying the current and contingent expenses of the state penitentiary, and for making permanent improvements and additions thereto as follows:

Warden's salary	$ 4,000
Deputy warden's salary	3,000
Bookkeeper's salary	2,400
Storekeeper and clerk's salary	2,700
Matron's salary	800
Chaplain's salary	500
Guards' and employees' salary	25,000
Maintenance	40,000
Heating and lighting	15,000
Repairs and improvements	7,500
Incidentals and national prison congress	1,500
Physician and medicine	3,200
Transportation, clothing, etc., discharged inmates	5,000
Clothing	5,000
Bedding	1,500
Books and stationery	1,500
Water supply	7,000
Brickyard	5,000
Resident quarters of officers	2,000
Expenses of warden, to be paid monthly, not to exceed the biennial sum of	1,000
Building for condemned prisoners	2,500
Work shop	2,500
Installing vacuum heating system for entire institution	4,000
New roof and repairs for engine house, main building, etc.	4,500
Two cow and cattle barns	3,500

§ 2. EMERGENCY.] An emergency exists in this, that there is no provision for the payment of the expenses of said penitentiary after March 1, 1909, therefore this act shall take effect from and after its passage and approval.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 81, making an appropriation for the current and contingent expenses of the state penitentiary with my approval thereon, excepting item of two thousand dollars for officers' residence, which item is disapproved because of the insufficiency of state revenues.

JOHN BURKE,
Governor.

CHAPTER 20.

[S. B. No. 166—Overson]

WILLISTON SUB-STATION IMPROVEMENTS.

AN ACT Making an Appropriation for the Williston Experiment Station, Located at the City of Williston, Williams County.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] The sum of seven thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated for the Williston experiment station, located at Williston, Williams county, for the purpose of erecting suitable buildings in the following items, viz:

Residence and office for superintendent	$ 4,500
Barn	2,000
Machinery and storage shed	500
Total	$ 7,000

§ 2. EMERGENCY.] An emergency exists, in that some of the above appropriated sums will be required prior to July 1, 1909, therefore this act shall be in force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 21.

[S. B. No. 16—Gilbert]

AGRICULTURAL COLLEGE.

AN ACT Appropriating Money for the Purpose of Building and Equipping a Dairy Laboratory and Barn; a Veterinary Laboratory and Stable; for Apparatus for Engineering Departments; for Building Sidewalks; for Girls' Dormitory and Domestic Science Laboratory, for the Agricultural College Located at Fargo, North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury not otherwise appropriated the following sums of money, viz:

For building and equipping a dairy laboratory and dairy barn	$ 35,000
For building and equipping a veterinary laboratory and barn	30,000
For apparatus and equipment for the department of engineering	12,000
For building cement walks	3,000
For building and equipment of a combination girls' dormitory and domestic science laboratory and for making other improvements	75,000
For dynamo and fixtures for furnishing the college with light and power	10,000

§ 2. EMERGENCY.] An emergency exists, in that many of the improvements provided for in this act should be started early in the spring, therefore this act shall be in force after its passage and approval.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 16 appropriating money for making improvements at the agricultural college at Fargo, with my approval excepting item of thirty-five thousand dollars for a dairy barn, which item is disapproved because of the insufficiency of the state revenue.

JOHN BURKE,
Governor.

CHAPTER 22.

[S. B. No. 148—LaMoure]

BLIND ASYLUM IMPROVEMENTS.

AN ACT to Provide for Making Needed Permanent Improvements for the North Dakota Blind Asylum at Bathgate, and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] For the purpose of making permanent improvements at the North Dakota blind asylum at Bathgate, there is hereby appropriated the following sums for the uses following, to-wit:

For the purchase of land for said institution	$ 2,000
For sewer	10,000
For power house	15,000
For rough grading	2,000
For landscape work	2,000
Total	$ 31,000

§ 2. EMERGENCY.] Whereas, it is necessary that the improvements contemplated in this act should be commenced prior to July 1, 1909, therefore an emergency exists, and this act shall take effect and be in full force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 23.

[S. B. No. 165—Overson]

WATER FOR WILLISTON SUB-STATION.

AN ACT Making an Appropriation of Five Hundred Dollars for Each of the Years 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917 and 1918 for the Williston Experiment Station, Located at the City of Williston, Williams County to be Used for Payment of Water Charges for Irrigation, Including Construction, Operation and Maintenance Charges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] The sum of five hundred dollars is hereby appropriated for each of the years 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917 and 1918, out of any money in the state treasury not otherwise appropriated, for the Williston experiment

station, at Williston, Williams county, for the payment of the charges for water for irrigation, including construction, operation and maintenance charges.

§ 2. EMERGENCY.] An emergency exists, therefore this act shall be in force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 24.

[S. B. No. 48—Steele]

CURRENT EXPENSES HOSPITAL FOR INSANE.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses of the State Hospital for the Insane of North Dakota at Jamestown.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the state hospital for the insane of North Dakota, at Jamestown, for the period beginning March 1, 1909, and ending April 30, 1911, the sum of thirty thousand three hundred dollars, or as much thereof as may be necessary, as follows:

Salaries of resident officers	$ 14,600
Incidental expenses and repairs	5,000
Return of patients and burial of dead	1,500
Sewerage and plumbing	1,500
Electric supplies and repairs	1,000
Supplies for blacksmith shop	500
Supplies for engine room	1,000
Laundry machinery and repairs	1,000
Paints and painting	2,500
Farm implements	1,000
Fire department	700
Total	$ 30,300

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the fiscal period for which this appropriation is made will not begin before July 1, 1909, and the funds appropriated hereby will be needed before that time, therefore this act shall take effect from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 25.

[S. B. No. 113—Purcell]

SCHOOL OF SCIENCE IMPROVEMENTS.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses and for Permanent Improvements for the State School of Science at Wahpeton.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of, and for permanent improvements to the state school of science for the period beginning March 1, 1909, and ending March 1, 1911, the sum of fifty-nine thousand seven hundred dollars, or as much thereof as may be necessary, as follows:

For maintenance	$ 2,200
For girls' dormitory, fire proof	35,000
For chemical building, fire proof	8,600
For heating plant	7,500
For ventilation, wiring and repairs to college building	1,500
For furnishing for dormitory	1,700
For cement walks	700
For grading and draining	500
For equipment of dining room and kitchen	800
For equipment of laboratories, chemical, physical, biological	1,200
Total	$59,700

§ 2. EMERGENCY.] An emergency exists in this that the funds hereby appropriated will be needed before July 1, 1909, therefore this act shall take effect from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 26.

[S. B. No. 47—Steele]

NEW BUILDINGS HOSPITAL FOR INSANE.

AN ACT to Provide an Appropriation for the Erection of New Buildings and Other Improvements at the State Hospital for the Insane of North Dakota at Jamestown.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the pur-

pose of erecting necessary additional buildings at the state hospital for the insane of North Dakota, at Jamestown, and making other needed and necessary improvements, and for the proper equipment of such buildings, the sum of one hundred twenty-six thousand and fifty dollars, as follows:

Finishing fireproof ward building	$ 62,750
Hospital for tuberculosis and contagious diseases	25,000
Local telephone system	1,000
Extension to kitchen building	8,500
Extension to bakery	1,500
Ice house and fuel shed	2,000
Sewage disposal plant	5,000
Rewiring for electric power current	1,500
Two new boilers	6,000
Sanitary repairs	1,500
Improvements to grounds and building of sidewalks	1,000
Purchasing additional land	4,800
To furnish and equip new ward building and hospital for tuberculosis and contagious diseases	5,000
Bread-mixing machine and motor	500
Total	$ 126,050

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that the money hereby appropriated to finish a fireproof ward building, now in process of construction, will be needed before July 1, 1909, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 27.

[S. B. No. 146—LaMoure]

RELIEF OF T. R. SHAW.

AN ACT Appropriating Money to Compensate T. R. Shaw for Balance of Salary Due as Secretary of the North Dakota State Capitol Commission, and for Sundry Items of Expense Incurred by Said T. R. Shaw, While Acting as Such Secretary, During the Months of August, September, October and November, in the Year 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of

three hundred and ninety-one dollars and twenty cents to T. R. Shaw for the unpaid balance due him as secretary of the North Dakota state capitol commission and for sundry items of expense during the months of August, September, October and November, 1905, as per itemized bill now on file in the office of the state auditor, and the said state auditor is hereby empowered to draw his warrant on the state treasurer for said above mentioned sum.

Approved March 4, 1909.

CHAPTER 28.

[S. B. No. 43—Pierce]

DEMONSTRATION FARMS.

AN ACT Appropriating an Annual Sum of Money for the Use of the Government Experiment Station at Fargo for Conducting Demonstration Farms and for Otherwise Co-operating With Farmers, for Making Experiments in the Manufacture of Denaturized Alcohol, for Publishing Reports and Bulletins, for Analyses of Fertilizers and Stock Foods, for Complying with the Provisions of the Pure Paint, Paris Green and Formaldehyde Laws and for Making Other Experiments.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of twelve thousand dollars, to be paid quarterly to the treasurer of the North Dakota agricultural college in April, July, October and January of each year upon the order of the state auditor, who is hereby directed to draw order for the same for the use of the government experiment station at Fargo for the purpose of continuing the twelve demonstration farms now located at Sanborn, Bismarck, New Salem, Beach, Carrington, Flaxton, Page, Bathgate, Larimore, Lakota, Granville and Ross respectively, and for the establishment of not less than six nor more than twelve additional demonstration farms, to be located by the director of the government experiment station in counties that are not already provided with a demonstration farm; provided, that each demonstration farm hereafter located shall not be more than three miles from a railway depot where at least one passenger train stops each way each day, and on land that shall have been leased to the state of North Dakota for a period of not less than ten years; provided, further, that should any of the twelve demonstration farms heretofore leased and operated refuse, after their present lease shall have expired, to enter into a ten year lease as provided for in this section, then the said government experiment station, through its director, shall be authorized to effect a lease with some other farmer, but within the same county if pos-

sible; provided, further, that two thousand dollars of the amount hereby annually appropriated shall be set aside for the sole purpose of installing and conducting demonstration farms at or near the village of McLeod, North Dakota, for making additional experiments with cereals, root-crops and tree culture and for making experiments in the manufacture of denatured alcohol from by-products of the farm; for publishing the annual report of the demonstration farms and of the experiment station, and for printing additional popular, press and scientific bulletins; for complying with the provisions of the pure paint law, paris green law, and formaldehyde law now on the statute books, and for making analyses of fertilizers and stock foods, and for other experimental purposes.

§ 2. REPEAL.] All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Many of the provisions of this act require an expenditure of money before July 1, 1909, hence an emergency exists, and this act shall be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 29.

[S. B. No. 69—Stevens]

ST. LOUIS EXPOSITION DEFICIT.

AN ACT to Appropriate One Hundred Fifty-five Dollars and Twenty-six Cents to Reimburse Citizens of North Dakota Who Advanced Money to Help Defray Expenses Incurred in Making the State Exhibit at the St. Louis Exposition.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of one hundred fifty-five dollars and twenty-six cents, to reimburse citizens of North Dakota who advanced money to help defray expenses incurred in making the state exhibit at the St. Louis exposition.

§ 2. TO WHOM WARRANTS ISSUE.] The state auditor is hereby authorized to draw warrants against the above appropriation in favor of the following named persons, and for the amount stated, upon vouchers properly signed and approved, viz.: Prof. E. J. Babcock, of Grand Forks, N. D., the sum of ninety-seven dollars and seventy-six cents, being for the sum of seventy-five dollars and twenty-one cents, monies advanced by him for the purpose above named, and interest on same for five years at six per cent per annum, and Prof. M. A. Brannon, of Grand Forks, N. D., the sum of fifty-

seven dollars and fifty cents, the same being for forty-four dollars and twenty-four cents advanced by him for the purpose named, and interest thereon for five years at the rate of six per cent per annum.

§ 3. EMERGENCY.] Whereas, an emergency exists, in that these claims have long since been recognized as being just, but through an oversight have never been paid, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 30.

[S. B. No. 207—Welch]

ELECTRIC WIRING AT PENITENTIARY.

AN ACT to Appropriate Money for Repairing and Wiring at the State Penitentiary.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of two thousand dollars for the purpose of renewing the electric wiring at the state penitentiary, and making such improvements and repairs in connection with the electric and telephone wiring at the state penitentiary as may be necessary in order to comply with the insurance underwriters' rules and regulations, and to complete the system of wiring in the institution.

§ 2. EMERGENCY.] An emergency exists in this, that the condition of the electric wiring at the state penitentiary buildings and grounds is dangerous to life and property, and that no available funds exist for the purpose of making the changes and improvements, therefore this act shall take effect from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 31.

[S. B. No. 322—LaMoure]

BOOKS FOR STATE LAW LIBRARY.

AN ACT Amending Section 1 of Chapter 166 of the Laws of 1889, It Being Section 1296 of the Revised Codes of 1905, Providing for the Purchase of Books for the State Library.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1296, revised codes of 1905, is hereby amended to read as follows:

§ 1296. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of two thousand dollars annually, to be expended by the secretary of state, under the direction of the judges of the supreme court, in purchasing for the state library such volumes of the supreme court reports, digests and statutes of any state or territory, where such volumes cannot be procured by exchange and for the purchase of such other books and documents as may be deemed advisable for such library. Before purchasing such books, the secretary of state shall advise with and consult the judges of the supreme court as to what books shall be purchased.

§ 2. EMERGENCY.] An emergency existing from the fact that the appropriation for the purchase of books for the state library is exhausted, and for the further reason that it requires approximately the sum now appropriated to pay for current volumes, as they are issued, of serial sets of reports, encyclopedias and other works, and this leaves practically nothing for the purchase of new issues of text and other books as they are issued, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 32.

[S. B. No. 29—Gunderson]

STATE UNIVERSITY.

AN ACT Making Appropriations for Permanent Improvements at the State University and School of Mines of North Dakota and for the Maintenance of a Mining Experiment Sub-Station in Connection with Such State School of Mines.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, out of the moneys in the state treasury not otherwise appropriated, for the purpose of making the following permanent improvements at the state university and school of mines of North Dakota and for the maintenance of a mining experiment substation in connection with such state school of mines at the state university:

For needed repairs on the building known as Science Hall	$ 3,000
For the erection of a suitable building for the department known as teachers' college	60,000
For equipping the mechanical and electrical laboratories	5,000
For equipping the laboratory and testing department of the school of mines for the purpose of carrying on experimentation and the testing of the state's min-	

erals and allied resources; for the expenses of establishing and the management of a mining experiment sub-station and for finishing off and equipping two rooms in the school of mines building.....	30,000
For the erection of a commons hall to house the boarding department	40,000
For equipping the Carnegie library building with book stacks and furniture	3,000
For moving and repairing the power plant.....	20,000
For improvements of the university grounds and campus, including grading, trees, seeding and walks.....	5,000
For maintenance	10,000
For library books, magazines and pamphlets, including bindings	5,000
Total	$ 181,000

Provided, that of the thirty thousand dollars hereby appropriated for the school of mines, not less than twelve thousand dollars thereof shall be used for the establishment and maintenance of the mining experiment sub-station during the fiscal years 1909 and 1910.

§ 2. EMERGENCY.] Whereas, an emergency exists in that work must be commenced on the buildings, improvements and repairs provided for in this act before the first day of July next, therefore this law shall take effect and be in force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 33.

[H. B. No. 11—Wolbert]

HOUSE CLOCK.

AN ACT Making an Appropriation for the Purchase and Installing of a Clock in the House Chamber.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated, out of the moneys in the general fund of the state treasury not otherwise appropriated, the sum of one hundred and eighty-five dollars, or as much thereof as may be necessary, for the purchase and installing of clock over the speaker's desk in the house chamber.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no clock in the house chamber, and there is a certain space left for it over the speaker's desk, and a clock was ordered for this space, but there being no appropriation to pay for same, it has never been installed, and such clock is necessary for the use of the members, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1909.

CHAPTER 34.

[H. B. No. 166—Traynor]

LIVE STOCK BOARD DEFICIENCY.

AN ACT Making an Appropriation to Meet the Deficiency Incurred by the State Live Stock Sanitary Board in Carrying Out the Purposes of Chapter 169 of the Session Laws of 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds in the hands of the state treasurer, not otherwise appropriated, the sum of six thousand dollars, or as much thereof as may be necessary, to pay the vouchers now unpaid and in the hands of the state auditor, arising from section 18, chapter 169, session laws 1907.

§ 2. EMERGENCY.] Whereas, an emergency exists in the fact that there is no fund available for paying these vouchers which are now on hand and properly filed in the state auditor's office, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 35.

[S. B. No. 265—Kennedy]

FLORENCE CRITTENDEN HOME.

AN ACT Making an Annual Appropriation to Assist in the Maintenance of the Florence Crittenden Home, Located at Fargo, One of the Charitable Institutions of the State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DECLARED A CHARITABLE INSTITUTION.] The Florence Crittenden home, located at Fargo, is hereby declared to be one of the charitable institutions of the state of North Dakota and as such entitled to receive aid from the general fund of the state for the support of the poor therein.

§ 2. APPROPRIATION.] There is hereby annually appropriated the sum of three thousand dollars to such Florence Crittenden home, located at Fargo, for the purpose of assisting in its support and maintenance.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 36.

[S. B. No. 198—McArthur]

RELIEF OF JUDGE BURR.

AN ACT Appropriating Money to Compensate A. G. Burr for Salary Due and Sundry Items of Expense Incurred by Said A. G. Burr While Acting as District Judge of the Ninth Judicial District, for a Period of Four Months.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one thousand three hundred thirty-three dollars and thirty-four cents, for salary and actual expenses incurred while acting as judge of the ninth judicial district, as per itemized bill now on file in the office of the state auditor and the said state auditor is hereby empowered to draw his warrant on the state treasurer for said above mentioned sum.

§ 2. EMERGENCY.] An emergency exists in this, that said expense has been incurred and no provision has been made for the payment thereof, therefore this act shall take effect from and after the date of its passage and approval.

Approved March 3, 1909.

CHAPTER 37.

[H. B. No. 24—McCrea]

LIVE STOCK SANITARY BOARD.

AN ACT to Amend Section 19 of Chapter 169 of the Laws of 1907, Entitled "An Act to Establish the Live Stock Sanitary Board of North Dakota and to Provide for the Suppression and Control of Dangerous, n tagious and Infectious Diseases of Domestic Animals."

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 19 of chapter 169 of the laws of 1907 is hereby amended so as to read as follows:

§ 19. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of ten thousand dollars per annum, or so much thereof as may be necessary, for the purpose of paying the expenses incurred by the state live stock sanitary board in carrying out the purposes of this act.

§ 2. REPEAL.] All acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, the duties of the live stock sanitary board have greatly increased and, whereas, the sufficient discharge of said duties is hampered by lack of funds, therefore, an emergency exists and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 3, 1909.

CHAPTER 38.

[H. B. No. 178—Honey]

ROCK ISLAND MILITARY RESERVATION.

AN ACT Making an Appropriation for the Improvement, Betterment, Conservation and Preservation of the Rock Island Military Wood Reservation in Ramsey County, North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the state treasury, not otherwise appropriated, the sum of five thousand dollars to be expended under the direction of the governor by the advisory board provided for in section 1754 of the revised codes of North Dakota for 1905, for improvements, betterment, conservation and preservation of the Rock Island military wood reservation in Ramsey county, North Dakota.

§ 2. EMERGENCY.] An emergency exists in this, that whereas, it is advisable that the improvement contemplated by this act be begun previous to July 1, 1909, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1909.

CHAPTER 39.

[H. B. No. 145—Putnam]

REIMBURSING PROF. LADD.

AN ACT for an Appropriation to Reimburse Professor E. F. Ladd, for Disbursements and Expenses Incurred in the Enforcement of the Pure Food Laws.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of two thousand one hundred seventy-one dollars and twenty-three cents to be paid to Professor E. F. Ladd for the purpose of reimbursing him for the disbursements made and expenses incurred for

attorneys' fees and expenses as defendant in the case of Russell-Miller Milling company and others against E. F. Ladd, commenced in the district court in and for Cass county, North Dakota.

§ 2. EMERGENCY.] Whereas, there are no funds available to pay the claim described in the above section and the same ought to be paid at once, therefore this act shall take effect and be in force immediately upon its passage and approval.

Approved March 20, 1909.

CHAPTER 40.

[H. B. No. 134—McCrea]

PURE PAINT LAW LITIGATION.

AN ACT Making an Appropriation to Pay Legal Expenses and Disbursements Incurred by the Government Agricultural Experiment Station of the North Dakota Agricultural College, in Defending the Suit Brought to Annul the "Pure Paint Law" of This State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the state funds in the treasury, not otherwise appropriated, the sum of one thousand nine hundred and eighty-one dollars and ninety-five cents for the payment of bills for legal expenses incurred by the director of the government agricultural experiment station of the North Dakota agricultural college in defending in the United States circuit court, and upon appeal from the judgment of said court taken to the United States supreme court in the suit brought for the purpose of annulling chapter 8 of the session laws of 1905, approved March 6, 1905, commonly known as the "pure paint law," and which bills are filed with the state auditing board.

§ 2. EMERGENCY.] An emergency exists in this that said expenses have been incurred and no provision has been made for the payment thereof; therefore this act shall take effect from and after the date of its passage and approval.

Approved March 20, 1909.

ASSESSORS

CHAPTER 41.

[H. B. No. 68—Grant]

MEETING OF COUNTY ASSESSORS.

AN ACT to Amend Section 1513 of the Revised Codes of North Dakota for 1905, Relating to the Furnishing By County Auditors of Assessment Books and Blanks and Lists of Real Property and Regulating Time of Meeting of Assessors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1513 of the revised codes of North Dakota for 1905 is hereby amended to read as follows:

§ 1513. AUDITOR TO FURNISH BOOKS, ETC. REAL PROPERTY. MORTGAGES. MEETING OF ASSESSORS.] The county auditor shall annually provide the necessary books and blanks at the expense of the county for and to correspond with each assessment district or township. He shall make out in the real property assessment book a complete list of all lands or lots subject to taxation (showing the name of owners, if to him known, and if unknown, so state it) the number of acres and the lots and parts of lots or blocks included in each description of property. The assessment books and blanks shall be in readiness for delivery to the assessors on the second Wednesday in April in each year, and the assessors shall meet on that day at the office of the county auditor for the purpose of receiving such books and blanks and for conference with the auditor in reference to the performance of their duties.

Approved March 16, 1909.

AUTOMOBILES

CHAPTER 42.

[H. B. No. 154—Kneeland]

RIGHT-OF-WAY.

AN ACT to Amend Sections 2173 and 2174 of the Revised Codes of the State of North Dakota, for 1905, Relating to Automobiles.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2173 of the revised codes of the state of North Dakota, of 1905, is hereby amended to read as follows:

§ 2173. STOP WHEN SIGNALED BY DRIVER OF VEHICLE.] The driver or operator in charge of any automobile or motor cycle on any public road or highway outside the limits of any town, village or city within the state, when signalled by the driver of any vehicle propelled by horses or other animal power, which signal shall be given by raising the hand or in such other manner as to attract attention, shall stop said automobile or motor cycle until the vehicle propelled by said animal power has passed; and if approaching said vehicle from behind, the driver or operator in charge of said automobile or motor cycle shall stop for a reasonable time, and the driver of said animal propelled vehicle shall, as soon as the condition of the road will permit, turn to the right and allow at least one-half of the road on his left for the passage of said automobile.

§ 2. AMENDMENT.] Section 2174 of the revised codes of the state of North Dakota of 1905 is hereby amended to read as follows:

§ 2174. PENALTY FOR VIOLATION.] Any person who shall violate any provisions of this article shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars and not more than fifty dollars, and if default is made in the payment of such fine such person or persons shall be committed to the county jail until such fine is paid; conditioned, however, that each day's service in jail shall be equal to two dollars of such fine, and the person so offending shall be liable for damages in a civil action to any person who shall have been injured in person or property by reason of such violation of this article.

Approved March 13, 1909.

BANKING

CHAPTER 43.

[H. B. No. 345—Kinney, of Richland]

STATE BANKS OFFICIALLY NUMBERED.

AN ACT Providing That All State Banks Shall Be Known and Designated By An Official Number.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BANKS HAVE OFFICIAL NUMBER.] It is hereby provided that all banks existing and hereafter organized under the laws of this state shall be numbered and shall receive from the secretary of state an official number, and it shall be the duty of the secretary of state to notify each bank of its official number and also file a list of same with the state bank examiner.

Approved March 12, 1909.

CHAPTER 44.

[H. B. No. 278—Wolbert]

LIMITING LIABILITY OF BANKS.

AN ACT Fixing the Liability of a Bank to Its Depositor for Payment of Forged or Raised Checks.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TIME IN WHICH LIABLE LIMITED.] No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within thirty days after the return to the depositor of the voucher of such payment, such depositor shall notify the bank that the check so paid is forged or raised.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1909.

CHAPTER 45.

[S. B. No. 54—Luetz]

LIMIT OF BANK LOANS.

AN ACT to Amend Section 4657 of the Revised Codes of 1905, Relating to the Limit of Bank Loans to One Concern.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4657 of the revised codes of 1905 is amended to read as follows:

§ 4657. LIMIT OF LOAN TO ONE CONCERN.] The total liability to any association of any person, corporation, company or firm, including in the liabilities of the firm the liabilities of the several members thereof, for money borrowed, and paper of the same parties as makers thereof, purchased, shall not at any time exceed fifteen per cent of the capital and surplus stock of such association actually paid in, but the discount of bills of exchange drawn in good faith against actual existing values, or loans upon produce in transit or actually in store as collateral security; provided, that all paper relating to such transactions be made payable to and such paper and the security therefor, be and remain in the possession and control of such association until the advance or debt be paid, shall not be considered as money borrowed, and such association may discount commercial or business paper actually owned by the person negotiating the same without it being deemed an addition to the loans to said negotiator.

Approved February 18, 1909.

BARBERS

CHAPTER 46.

[S. B. No. 271—Leutz]

SANITATION OF BARBERSHOPS.

AN ACT Regulating Sanitary Conditions in Barbershops, Hairdressing and Manicuring Parlors, and Providing Penalties for the Violation of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BARBER'S TOOLS DISINFECTED.] Registered barbers or barber apprentices, and all persons engaged in hair dressing and manicur-

ing, must disinfect all tools used in the performance of their profession before they are brought in direct contact with the person of any one of their customers. This disinfection must be carried on in a manner approved by the board of health of the state of North Dakota.

§ 2. VIOLATION OF THIS ACT, HOW PUNISHED.] Any violation of this act shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars.

Approved March 15, 1909.

BIOLOGICAL

CHAPTER 47.

[H. B. No. 177—Traynor]

STATION ESTABLISHED.

AN ACT Providing for the Creating, Establishing and Maintaining of a Biological Station on the Shore of Devils Lake in Ramsey County, North Dakota, for the Control of Such Station and Work Associated Therewith, Appointment of Directors of Such Station and Its Associated Work, Prescribing the Duties of Such Directors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ESTABLISHMENT OF BIOLOGICAL STATION.] There is hereby created and established a biological station to be located on or near the shore of Devils Lake, in Ramsey county, North Dakota, and to be under the control and regulation of the board of trustees of the state university, and the biological staff at the state university shall have direction of the work of said station.

§ 2. DUTIES OF DIRECTORS. SITE.] It shall be the duty of the staff of said station, as directors thereof, to study the animals and plants in Devils Lake and in any other portions of North Dakota with reference to the problem of restocking and cultivating fish in Devils Lake and in any other waters of the state, especially those of an alkaline character; to study and make collections of any animals and plants in North Dakota that have commercial or scientific value, and to cause to be issued from time to time, bulletins and reports, which shall be printed at state expense, setting forth the results of the studies at the station or of those carried on in work associated with the station, the substance of which bulletins and reports, embodying all useful and important information resulting from the work carried on at the station or in the work associated with

the station each year, shall be incorporated by said directors in an annual report to the governor who shall lay the same before the legislative assembly; provided, that this biological station shall not be established nor its work undertaken unless a suitable tract of land therefor be donated free of charge by warranty deed.

Approved March 20, 1909.

CHAPTER 48.

[H. B. No. 251—Traynor]

BIOLOGICAL STATION APPROPRIATION.

AN ACT Appropriating Money to Provide for the Erection, Equipment and Maintenance of a Biological Station at Devils Lake, North Dakota, and to Carry on Its Associated Work.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION FOR BUILDING.] For the purpose of erecting a suitable building for a biological station, at Devils Lake, North Dakota, there is hereby appropriated for the said station the sum of five thousand dollars out of monies in the state treasury not otherwise appropriated.

§ 2. APPROPRIATION FOR MAINTENANCE.] For the purpose of providing proper equipment and for the maintenance of said biological station and its associated work there is hereby appropriated the sum of three thousand dollars annually out of monies in the state treasury not otherwise appropriated.

Approved March 20, 1909.

BONDS

CHAPTER 49.

[S. B. No. 222—Ramsett]

LEGALIZING FLOATING INDEBTEDNESS AND BONDS.

AN ACT to Legalize Certain Floating Indebtedness Incurred by Cities, Villages and School Districts of this State Under Certain Circumstances, and Bonds Issued, or That May Be Issued, to Fund the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ACTS LEGALIZED.] Where the officers of any incorporated city, village or school district of this state shall have incurred indebtedness and issued warrants or orders for the erection, purchase,

repair or maintenance, within and for said city, village or school district for school or other buildings or waterworks, gas or electric light plants, public wells, cisterns, fire apparatus, or legitimate corporate purposes for said city, village or school district, or to pay for or to raise money for any such purposes, and said warrants or orders are outstanding, or held in the general revenue or other funds of said city, village or school district, in any and all such cases where said warrants or orders are within the debt limit, the same are hereby legalized and are declared to be the valid indebtedness of such city, village or school district, and in every such case where the city council, village board of trustees, school board or board of education thereof shall have heretofore, or shall hereafter determine by resolution or ordinance, having been thereunder authorized by a majority vote of the qualified electors of such city, village or school district, voting thereon at any regular or special election that it was or is for the best interests of the city, village or school district, to issue its negotiable bonds in the name of the city, village or school district for the sole purpose of funding such indebtedness, then in every such case such bonds whether engraved, lithographed or printed on bond paper, shall when executed, sold and delivered as provided by law be deemed, and hereby are declared to be the valid obligations of such city, village or school district.

§ 2. PENDING ACTIONS NOT AFFECTED. DEBT LIMIT.] This act shall not affect any actions now pending in which the validity of any such warrants, orders, bonds or indebtedness is called in question; providing, however, that the issue of such bonds shall not be construed to be an increase of the indebtedness of the municipality and the proceeds of sales of such bonds shall be applied exclusively towards the discharge of the indebtedness of such city, village or school district referred to in section one of this act.

§ 3. EMERGENCY.] It is hereby declared that an emergency exists and that this act shall, therefore, be in full force and effect from and after its passage and approval.

Approved March 11, 1909.

BOUNTIES

CHAPTER 50.

[S. B. No. 282—Purcell]

TREE PLANTING.

AN ACT to Amend Chapter 41 of the Session Laws of the State of North Dakota, Enacted by the Tenth Session of the Legislative Assembly of Said State, Relating to Bounties for Tree Planting.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 41 of the session laws of 1907, enacted by the tenth legislative assembly of the state of North Dakota is amended so as to read as follows:

§ 2082. BOUNTY FOR TREE PLANTING.] Any person who shall hereafter plant, cultivate and keep in a growing, thrifty condition one acre and not more than ten acres of prairie land with any kind of forest trees, and shall plant or have planted said trees not more than eight feet apart each way, shall be entitled to three dollars for each acre so planted and cultivated, to be deducted annually from the taxes levied against real estate comprising eighty acres, one hundred and sixty acres, or three hundred twenty acre farm, as the case may be, upon which said trees are growing; but such bounty shall not be paid unless such grove shall have at least four hundred living trees on each acre so maintained and kept in growing condition; provided, the bounty allowed in any one year shall not exceed the taxes for such year upon the quarter section of land of which such parcel of land planted to trees is a part.

Approved March 15, 1909.

BRANDS

CHAPTER 51.

[S. B. No. 317—Leutz]

CANCELLING BRANDS.

AN ACT to Provide for the Cancellation of Legally Recorded Brands in the Office of the Commissioner of Agriculture and Labor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SHALL CANCEL BRAND.] The commissioner of agriculture and labor shall cancel a legally registered brand only when he receives for file a bill of sale therefor, properly executed by the record owner, as shown by the registers in his office.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1909.

CIGARETTES

CHAPTER 52.

[S. B. No. 144—LaMoure]

MANUFACTURE AND SALE PROHIBITED.

AN ACT to Prohibit the Manufacture, Sale or Use of Adulterated Cigarettes and Prohibiting the Use of Tobacco by Minor Persons and by all Minor Pupils of Public Schools, and Providing Penalties Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ADULTERATION PROHIBITED.] Any person within the state who manufactures, sells or gives to any one, or uses any cigarette containing any substance foreign to tobacco, shall be punished by a fine of not more than fifty dollars or imprisonment in a county jail for not more than thirty days.

§ 2. PENALTY.] Any person within this state who sells, gives to or in any way furnishes any cigarette, cigars or tobacco, in any form to any person under eighteen years of age, except upon written order of parent or guardian, or to any minor pupil in any school, college or university, shall be punished by a fine not to exceed fifty dollars or imprisonment in the county jail not to exceed thirty days for each offense.

§ 3. USE OF BY MINORS PROHIBITED.] Any person under eighteen years of age, or any minor pupil, as described in section two of this act, who shall smoke or use cigarettes, cigars or tobacco in any form on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business, shall be arrested by any officer of the law, who may be cognizant of such offense and it shall be the duty of all such officers, upon complaint of any citizen, to arrest such offenders, without warrant, and take them before the proper court. The court shall impose a punishment at its discretion, in a sum not to exceed ten dollars, or imprisonment in the county jail not to exceed five days for each offense; provided, if said minor person shall give information which may lead to the arrest of the person or persons violating the provisions of section two of this act, in giving to, selling or in any way furnishing said minor person tobacco, and shall give evidence as a witness in such proceedings against said party or parties, the court shall have power to suspend sentence against such minor person.

§ 4. UNLAWFUL TO CONGREGATE TO USE. PENALTY. EXCEPTION.] Any person who harbors or grants to persons under eighteen years of age, or to minor pupils as described in section two of this act, privilege of gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be held in the same penalty as provided for in section two of this act; provided, that no part of this act shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises.

§ 5. OFFENSES, HOW INVESTIGATED.] Grand juries and state's attorneys shall have full inquisitorial powers over offenses committed under this act.

§ 6. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Approved February 26, 1909.

CITIES

CHAPTER 53.

[H. B. No. 61—Sgutt]

SPECIAL ASSESSMENTS.

AN ACT to Amend Section 2802 of the Revised Codes of North Dakota for 1905, Relating to Publication of Notice of Special Assessment List by City Auditor and to the Method of Procedure in Perfecting Appeals from Acts of the Special Assessment Commission for Cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2802 of the revised codes of North Dakota for 1905 is amended so as to read as follows:

§ 2802. PUBLICATION OF NOTICE OF ASSESSMENT LIST.] The city auditor shall thereupon publish once, in the official newspaper of the city, a notice stating that such assessment list has been confirmed by the special assessment [commission] and filed in his office, and is open to public inspection, and shall state in said notice the time and place when and where the city council will act upon such assessment list; and in case such notice shall have been given more than fifteen days prior to the next regular meeting of the city council, such assessment list shall be acted upon by such council at its next regular meeting; and in case such notice shall not have been published more than fifteen days prior to the first regular meeting of the city council thereafter, such assessment list shall be acted upon by the city council at its second regular meeting, after the publication of such notice. Any person aggrieved may appeal from the action of such commission by filing with the city auditor prior to the meeting at which the city council will act upon such assessment, a written notice of such appeal, and stating therein the grounds upon which the same are based.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this section are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the law now provides for notice of hearing to be given by the city auditor in case there is no appeal, this act shall be in force from and after the date of its passage and approval.

Approved March 16, 1909.

CHAPTER 54.

[S. B. No. 49—McArthur]

DEPOSITING GLASS ON STREETS.

AN ACT to Prohibit the Throwing or Depositing of Glassware of Any Kind Upon the Streets of any Village or City or Upon Public Highways and Providing for a Penalty for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEPOSITING GLASS ON STREETS UNLAWFUL.] Any person who shall leave, throw or deposit upon the streets of any village or city or upon any public highway, glassware of any kind shall be deemed guilty of a misdemeanor.

§ 2. PENALTY.] Whoever violates the provisions of section one of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars, nor less than ten dollars.

Approved March 11, 1909.

CHAPTER 55.

[S. B. No. 30—Duis]

REGULATION OF CHARGES FOR GAS.

AN ACT Authorizing Cities Incorporated Under the Laws of This State to Regulate and Fix the Rates to Be Charged by Persons, Firms or Corporations Furnishing Manufactured Gas for Lighting and Heating Purposes to Such Cities and the Inhabitants Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CITY MAY PRESCRIBE MAXIMUM RATES.] The city council of any city now or hereafter incorporated under the laws of this state, in which city any person, firm or corporation now is or hereafter may be exercising a franchise, right, license or privilege in or to any street, highway, alley or public place of such city for the furnishing of manufactured gas for lighting and heating purposes to such city and the inhabitants thereof, is hereby empowered to prescribe by ordinance maximum rates and charges for the service, commodity or utility so furnished, and to provide for the enforcement of such ordinance by suitable penalties; provided, that the rates and charges so fixed shall be just and reasonable, and when fixed, shall not be altered by the municipality oftener than once in five years; provided, further, that such rates and charges shall be

fixed by the city council after notice to the person, firm or corporation whose rates and charges are to be affected, and after reasonable opportunity to such person, firm or corporation to appear and be heard in relation to such matter in such manner as the city council may by resolution determine, and on such hearing such city council or its committee appointed for such purpose may by resolution require the production before it of all books of account, records and vouchers of such person, firm or corporation pertaining to the business, rates and charges under investigation.

§ 2. RATES PRIMA FACIE REASONABLE.] All rates and charges fixed hereunder shall, if the validity thereof be contested, be held to be prima facie just and reasonable, but any such person, firm or corporation aggrieved by any rate or charge fixed or established under the provisions of this act, may by suit in the district court of the county have the reasonableness of such rate or charge adjudicated, and may appeal from the decision of such court to the supreme court in the manner provided by law; provided, that no appeal from such rates or charges fixed by the city council pursuant to this act shall be taken by any person, firm or corporation aggrieved thereby, nor shall any action or suit to annul such rates or charges or to enjoin their enforcement or otherwise be brought or maintained by any such person, firm or corporation in any court, if such person, firm or corporation has failed or neglected to comply with any demand made hereunder by the city council or its committee for the production and inspection by the city council or its committee of the books of account, papers, vouchers and records of such person, firm or corporation.

§ 3. ADDITIONAL COUNSEL MAY BE EMPLOYED.] The city council, in exercising the right and powers hereby granted, may, by resolution, employ such legal counsel and other assistance as it may deem expedient.

§ 4. EMERGENCY.] Whereas, there is no law in this state touching the subject matter hereof, therefore, this act shall be in force from and after its passage and approval.

Approved March 11, 1909.

CHAPTER 56.

[H. B. No. 379—Hale]

SPECIAL STREET LIGHTING SYSTEM.

AN ACT Providing That Any City Shall Be Authorized to Install Upon Any of Its Streets or Avenues Any Special System of Street Lighting, and to Assess the Cost Thereof or Any Part Thereof Against the Property Directly Benefitted Thereby.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SPECIAL SYSTEM AUTHORIZED.] All cities shall have power and authority to install upon any of the streets thereof any special

system or systems of street lighting, and to defray the expenses and cost thereof as hereinafter provided.

§ 2. PROCEDURE TO INSTALL.] Whenever the owners of a majority of the property abutting on any street or streets of any city shall petition the city council, asking that there be installed upon such street lighting, to be therein and by said petition described in general terms, such city council may, at any time within sixty days after the filing of such petition with the city auditor, require plans, specifications and estimates of the probable cost of such improvement to be prepared by the city engineer, or such other person as shall, upon motion or resolution, be designated, and thereafter, and upon the return and filing of such plans, specifications and estimates and probable cost, such city may proceed to provide for the construction of such improvement and to assess the cost thereof against the abutting property in the same manner and with the same notice and according to the same forms and procedure as now provided by statute for the construction and assessment of street paving; and upon such proceedings being taken and completed, the cost of such construction or such part thereof as the council shall deem proper, be assessed against the abutting property in the same manner and according to the same form as now provided by law for the assessment of the cost of street paving.

§ 3. ASSESSMENT FOR COST.] In conducting proceedings under this act, it shall not be necessary to establish any separate lighting or improvement districts, and, in assessing the benefits, no assessment shall be made against any property other that that immediately contiguous to the streets or avenues where such improvement is made.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is now in existence no provision for the installment of any special system of street lighting by cities and for the assessment of the cost thereof against the adjoining property; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1909.

CHAPTER 57.

[S. B. No. 85—Wallin]

SPECIAL ASSESSMENTS FOR CITY IMPROVEMENTS.

AN ACT to Amend Section 2795 of the Revised Codes of 1905, of the State of North Dakota, Relating to Special Assessment by Cities, for Building of Sidewalks and Grading and Improving Streets.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2795, of the revised codes of 1905 of the state of North Dakota, is amended and re-enacted to read as follows:

§ 2795. SPECIAL ASSESSMENTS BY CITIES, AND FIXING THE TIME OF PAYMENT THEREOF.] All special assessment for sidewalks and for the expense of opening, widening, grading or extending streets shall be payable in equal annual amounts extending over a period of not exceeding ten years, and shall bear interest at the rate not to exceed seven per cent per annum on the total amount of such assessment remaining from time to time unpaid; providing, however, that any one who chooses to pay such special assessment in one single payment may do so, and any one who has paid one or more annual installments may pay the balance in one single payment.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that there is no law in the state now allowing payments of special assessments in annual installments, this law shall be in force and effect upon its passage and approval.

Approved March 11, 1909.

CHAPTER 58.

[S. B. No. 220—Rice]

CORPORATE LIMIT OF CITIES.

AN ACT to Amend Sections 2825 and 2826 of the Revised Codes of the State of North Dakota for 1905, and Chapter 47 of the Session Laws of the State of North Dakota for 1907, Relating to the Extension of Corporate Limits of Cities and to Provide a Method of Procedure for the Extension of Corporate Limits of Cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2825 of the revised codes of the state of North Dakota of 1905, and chapter 47 of the session laws of the state of North Dakota for 1907 be, and said section is hereby amended so as to read as follows:

§ 2825. EXTENSION OF LIMITS.] Any city of this state, whether organized under the general law or under a special charter, and without regard of the number of its inhabitants, may so extend its boundaries as to increase the territory within the corporate limits not to exceed one-half of its present area, by a resolution of the city council passed by two-thirds of the entire members-elect, particularly describing the land proposed to be incorporated within the city limits, setting forth the boundaries of the territory proposed to be incorporated; and provided, further, that whenever any city in this state is, or shall be separated into two parts, not contiguous at any point, the strip of unincorporated territory so separating and lying between such parts, if the same does not exceed one-fourth of the present limits of such city, may be so incorporated within such limits by the passage of a resolution as is hereinbefore provided for the extension of limits.

§ 2. AMENDMENT.] Section 2826 of the revised codes of North Dakota of 1905, be and said section is hereby amended so as to read as follows:

§ 2826. PUBLICATION OF RESOLUTION.] The resolution of the city council shall be published in the official newspaper of the city twice, once in each week's issue for three successive weeks, and printed or typewritten copies of said resolution shall also be posted in five of the most conspicuous places within the territory proposed to be annexed, and unless a written protest signed by a majority of the property owners of said proposed extension is filed with the city clerk or auditor within ten days after the last publication of such resolution, the territory described in the resolution shall be included within and become a part of said city. But in the event such written protest is filed, then the city council shall hear the testimony offered for or against such annexation, and if after hearing such testimony and after a personal inspection has been made of the territory proposed to be annexed, such city council is of the opinion that such territory ought to be annexed, and if such city council by a resolution of the city council, passed by two-thirds of the entire members-elect thereof, orders that such territory shall be so included within the corporate limits of such city, it shall then make and cause an order to be made and entered, describing the territory so annexed, and the territory described in such resolution shall be included within, and become a part of said city; provided, however, if the greater portion of said territory proposed to be annexed consists of lands used for farming or pasturing purposes, then said territory shall not be annexed.

§ 3. RECORD TO BE KEPT.] Upon written demand filed with the city council at or prior to the hearing of any of the parties affected thereby all proceedings, and the testimony submitted shall be reduced to writing and shall be filed with the city auditor, and shall remain on file in the office of said city auditor.

§ 4. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists in this that there is now no adequate law providing for the annexation of contiguous territory to cities, therefore this act shall be in full force and effect from and after the date of its passage and approval.

Approved March 15, 1909.

COMMISSIONERS OF DEEDS

CHAPTER 59.

[S. B. No. 137—Ramsett]

APPOINTMENT OF COMMISSIONERS OF DEEDS.

AN ACT to Amend Section 372 of the Political Code of the Revised Codes of 1905, Relating to Commissioners of Deeds.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 372 of the political code of the revised codes of the state of North Dakota for the year 1905 is amended as follows:

§ 372. APPOINTMENT.] The governor may appoint in each of the states of the United States and the territories thereof one or more commissioners under the seal of this state, to continue in office for the term of six years, who shall have the power to administer oaths, and to take depositions and affidavits to be used in this state, and also to take acknowledgments of any deed or other instrument to be used or recorded in this state.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] An emergency exists in this, that the present law only provides for the appointment of one commissioner in each city, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1909.

CONTAGIOUS DISEASES

CHAPTER 60.

[S. B. No. 128—Macdonald]

SERUM INSTITUTE.

AN ACT for the Creating of a Serum Institute for the Manufacture and Distribution of Such Agents as May be Useful and Necessary in the Eradication, Prevention and Control of Tuberculosis, Glanders, Hog-Cholera, Black-leg and Other Infections and Contagious Diseases, and Providing an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INSTITUTE ESTABLISHED.] There is hereby established a serum institute. Said institute shall be established at the state agricultural college and experiment station and shall be under the control and regulation of the trustees of the state agricultural college and experiment station and the professor of veterinary science of the agricultural college shall be the director of the said serum institute.

§ 2. DUTY OF DIRECTOR.] It shall be the duty of the director of said institute to manufacture or cause to be manufactured vaccines, sera, and other agents for the prevention, eradication, cure and control of tuberculosis, glanders, hog-cholera, black-leg, and other infectious or contagious diseases.

§ 3. SERUM TO BE DISTRIBUTED.] It shall be furthermore the duty of the director of said institute to distribute or cause to be distributed to citizens, residents of the state of North Dakota, free of charge, said vaccines, sera, and other agents upon application, showing evidence that the issue of said vaccines, sera, and other agents is warranted by existing conditions, and upon such conditions as may be prescribed by the live stock sanitary board.

§ 4. SERUM MUST NOT BE SOLD.] It shall be unlawful for any one receiving said vaccines, sera, and other agents issued by the state serum institute, to sell or offer for sale said vaccines, sera, and other agents and a failure to observe these provisions shall be deemed a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars.

§ 5. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum

of three thousand dollars per annum to be paid quarterly to the treasurer of the state agricultural college and experiment station, on the first days of April, July, October and January of each year, upon the order of the state auditor, who is hereby directed to draw his order for the same for the use of the serum institute as herein provided for the purpose of paying the expenses incurred by said serum institute, subject to the control and regulation of the board of trustees of the state agricultural college.

§ 6. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 7. EMERGENCY.] Whereas, there is no provision for the preparation and distribution of vaccines, sera, and other agents used in the control of transmissable diseases, and whereas, considerable preparation is necessary before their issue can be undertaken, therefore an emergency exists and this act shall take effect and be in force upon its passage and approval.

Approved March 20, 1909.

CORPORATIONS

CHAPTER 61.

[H. B. No. 211—Schull]

STOCK OF CORPORATION.

AN ACT Relating to the Issuance of Stock by Corporations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. KIND OF STOCK.] Every corporation shall have power to create two or more kinds of stock of such classes, with such designations, preferences and voting powers, or restriction or qualification thereof, as shall be stated and expressed in the articles of incorporation; and preferred stock may, if desired, be made subject to redemption at no less than par, at a fixed time and price, to be expressed in the certificate thereof; and the holders thereof shall be entitled to receive, and the corporation shall be bound to pay thereon a fixed yearly dividend, to be expressed in the certificate, payable quarterly, half yearly or yearly before any dividend shall be set apart or paid on the common stock, and such dividends may be made cumulative.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists this act shall be in effect from and after its passage and approval.

Approved March 16, 1909.

CHAPTER 62.

[S. B. No. 59—Koffel]

INCORPORATION OF CO-OPERATIVE ASSOCIATIONS.

AN ACT Authorizing and Regulating the Incorporation, Organization and Operation of Co-operative Associations, and Providing for the Regulation and Control of the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. How formed. Purposes. Term of existence.] A co-operative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, agricultural or other industrial pursuit upon complying with the provisions of this chapter, and the provisions of chapter 11 of the civil code of the state of North Dakota, 1905, shall be applied to and be observed by persons organizing under this chapter, except as herein otherwise provided, and except as to provisions thereof inconsistent with the provisions of this chapter. Its certificate of articles of incorporation shall be filed for record in the office of the secretary of state, for which the secretary of state shall be paid a filing fee of ten dollars, and thereupon it shall become a corporation and such association shall have the right and be subject to all the duties, restrictions and liabilities prescribed in chapter 11 of the civil code, so far as the same apply or relate to such association. A majority of the incorporators shall be residents of the county of its principal place of business, and the term of existence of any such association without renewal shall not exceed twenty years.

§ 2. Purpose must be stated. Cannot loan to stockholders. Penalty.] The purpose for which any association shall be formed must be distinctly and definitely specified in the articles of incorporation, together with its principal place of business, and it must not appropriate its funds to any other purpose, nor must it loan any of its money to any stockholder therein, and if any such loan or misappropriation is made the officer who shall make it or who shall consent thereto shall be jointly and severally liable to the extent of such loan or misappropriation and interest and for all debts of the association contracted before the repayment of the sum so loaned or misappropriated.

§ 3. Officers. Management.] Every such association shall have a president, a secretary and treasurer, and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders, and hold their offices until others have been chosen and qualified. The association shall make its own by-laws, not inconsis-

tent with law, and may therein provide for any other officers deemed necessary, and the mode of their selection. It may amend its certificate of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders.

§ 4. CAPITAL. LIMIT OF INTEREST. SHARES.] The amount of capital stock shall be fixed by the articles of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting specially called for that purpose; but the whole amount of stock shall never exceed fifty thousand dollars. Within thirty days after the adoption of an amendment increasing or diminishing its capital, it shall cause the vote so adopting it, together with a record of the minutes of said meeting, to be filed for record in the office of the secretary of state with its original certificate. No share shall be issued for less than its par value, and no member shall own shares of greater par value than one thousand dollars, or be entitled to more than one vote. It may commence business whenever thirty per cent of the stock has been subscribed for and paid in, but no certificate of shares shall be issued to any person until the full amount thereof has been paid in cash, and no person shall become a shareholder therein except by consent of the managers.

§ 5. LIABILITY OF OFFICERS. DISSOLUTION.] If such board of managers, or the directors or officers having control of such an association, for five consecutive years after its organization shall fail to declare a dividend upon its capital or shares, five or more stockholders, by petition setting forth such facts, may apply to the district court of the county of its principal place of business, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association.

§ 6. DISSOLUTION OF PROFITS.] The profits of the earnings of such association shall be distributed to those entitled thereto by its by-laws, and in the proportions and at the times therein prescribed, which shall be as often as once in twelve months.

§ 7. ANNUAL REPORT TO DAIRY COMMISSIONER.] Every creamery association, on or before January first in each year, in addition to the report provided for in chapter 11 of the civil code, shall make a report to the state dairy commissioner, or such officer as may at any time, by law, be given the supervision of dairy products. Such report shall contain the name of the corporation, its principal place of business, the location of its creamery, and the number of pounds of butter or other dairy products manufactured by it during the preceding year.

Approved March 11, 1909.

CHAPTER 63.

[H. B. No. 383—Price]

CORPORATION DIVIDENDS.

AN ACT to Amend Section 4210 of the Revised Codes of North Dakota for 1905, Relating to Dividends and Limitations of Indebtedness of Corporations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4210 of the revised codes of the state of North Dakota for 1905 be and the same is hereby amended so as to read as follows:

§ 4210. DIVIDENDS ONLY FROM PROFITS. LIMITATIONS OF INDEBTEDNESS. EXCEPTION.] The directors of corporations must not make dividends except from the surplus profits arising from the business thereof; nor must they divide, withdraw or pay to the stockholders, or any of them, any part of the capital stock, nor must they create debts beyond the subscribed capital stock, or reduce or increase the capital stock, except as specially provided by law; provided, however, that the above limitation as to the creation of debts shall not apply to the policy risks of insurance companies on which no loss has occurred, or the notes, bonds or debentures of any loan or trust company, organized under the provisions of this chapter when payment of such notes, bonds or debentures shall be secured by the actual transfer of real estate by trust deed or mortgage for the payment of such notes, bonds or debentures, which said real estate so transferred shall be of twice the value of the par value of such notes, bonds and debentures; provided, further, that such limitation shall not apply to any loan or trust company's guarantee of payment after transfer of any note, bond or debenture when the same is secured by trust deed or mortgage as above stated; provided, further, that the above limitation as to the creation of debts shall not apply to certificates and debentures issued by investment companies for the creation of an investment fund where the holder of such certificates or debentures shall, by the terms of same, participate in the earnings of such investment fund.

Approved March 12, 1909.

CHAPTER 64.

[H. B. No. 97—Senour]

ATHLETIC ASSOCIATIONS.

AN ACT to Amend Section 4177 of the Revised Codes of North Dakota for the Year 1905, for the Purpose of Encouraging the Formation of Athletic Associations and Bands of Musicians.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4177 of the revised codes of the state of North Dakota for the year 1905 be amended to read as follows:

§ 4177. FEES FOR ARTICLES.] Every corporation for profit, except corporations organized for the purpose of irrigation, water users associations, building and loan associations, county mutual insurance companies, corporations for the manufacture of dairy products, agricultural fair corporations, corporations whose capital stock does not exceed five thousand dollars formed for the purchase and maintenance of male animals for the improvement of stock, corporations whose capital stock does not exceed two thousand dollars for the purchase of musical instruments, music and uniforms for bands of musicians and corporations whose capital stock does not exceed five thousand dollars for the purpose of purchasing or leasing grounds and erecting thereon the necessary fences, buildings and seats, and purchasing the necessary equipments for the use of base ball clubs, foot ball teams and other athletic associations when composed of non-salaried members or players, the sum of twenty-five dollars for the first twenty-five thousand dollars or fraction thereof of the capital stock of said corporation, and the sum of fifty dollars for twenty-five thousand dollars up to fifty thousand dollars of the capital stock of such corporation and the further sum of five dollars for every additional ten thousand dollars or fraction thereof of its capital stock.

Approved March 15, 1909.

CHAPTER 65.

[S. B. No. 41—Pierce]

REAL ESTATE HOLDINGS LIMITED.

AN ACT to Amend Section 4171 of the Revised Codes of 1905 of the State of North Dakota, Relative to Religious and Charitable Corporations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4171 of the revised codes of North Dakota of 1905 is hereby amended to read as follows:

§ 4171. RELIGIOUS AND CHARITABLE LIMITED.] No corporation or association for religious or charitable purposes shall acquire or hold real estate in this state of greater value than two hundred thousand dollars.

Approved March 11, 1909.

COUNTIES

CHAPTER 66.

[S. B. No. 325—Anderson]

TRANSCRIBING COUNTY RECORDS.

AN ACT to Amend Section 2335 of the Revised Codes of the State of North Dakota of 1905, Relating to the Transcribing of Records in Newly Organized Counties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2335 of the revised codes of the state of North Dakota of the year 1905, is hereby amended as follows:

§ 2335. RECORDS TO BE TRANSCRIBED.] When a new county is organized in whole or in part from an organized county or from territory attached to such organized county for judicial purposes, it shall be the duty of the commissioners of such new county to cause to be transcribed by copying or by photographing in the proper books all the records or deeds or other instruments relating to real estate and all other records, deeds, or instruments of every kind required by law to be kept on file or recorded in the respective

county offices in such new county, and all contracts heretofore made by any board of county commissioners for the transcribing by copying or by photographing of any such records are hereby made valid and all records transcribed by copying or by photographing thereunder or under the provisions of this section shall have the same effect in all respects as original records, and any person authorized by such board of county commissioners to transcribe such records shall have free access at all reasonable times to such original records for the purpose of transcribing the same as aforesaid.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] An emergency exists in this, that there is no provision made by law for the transcribing of all records; therefore this act shall take effect and be in force immediately after its passage and approval.

Approved March 16, 1909.

CHAPTER 67.

[H. B. No. 248—Nelson of Steele]

COUNTY PUBLIC IMPROVEMENTS.

AN ACT to Amend Sections 2405, 2407, 2408 and 2409 of the Revised Codes of the State of North Dakota for 1905, Relating to the Authorization of Public Improvements in Counties and Providing for the Levying of Taxes to Aid in the Construction of the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2405 of the revised codes of the state of North Dakota for 1905 is hereby amended so as to read as follows:

§ 2405. BOARD TO SUBMIT EXTRAORDINARY OUTLAY TO VOTE.] It shall submit to the people of the county at any regular or special election any question involving an extraordinary outlay of money by the county or any expenditure greater in amount than can be provided for by the annual tax, or the construction of any court house, jail or other public building by establishing a building fund to aid in the construction of the same when the board shall consider the permanent buildings of the county, aforesaid, inadequate for the needs of its business and that it is not to the best interests of the county to issue bonds to aid in such construction or for the construction of such buildings by any other procedure as is, or may be provided by law, or whether it will aid in constructing or construct any highway or bridge.

§ 2. AMENDMENT.] Section 2407 of the revised codes of the state of North Dakota for 1905 is hereby amended so as to read as follows:

§ 2407. MODE OF SUBMITTING PROPOSITIONS.] The mode of submitting questions to the people contemplated by the last two sections shall be the following: The whole question, including the sum desired to be raised and the amount of the tax desired to be levied or the rate per annum and the years in which said tax is to be levied, shall be published for at least four weeks in the official newspapers of the county. If there are no such newspapers the publication shall be made by posting in at least one of the most public places in each election precinct in the county; and in all cases the notices shall name the time when such questions shall be voted upon and the form in which the question will be submitted; and a copy of the question submitted shall be posted at each voting place during the day of election.

§ 3. AMENDMENT.] Section 2408 of the revised codes of the state of North Dakota for 1905 is hereby amended so as to read as follows:

§ 2408. PROPOSITION TO TAX MUST ACCOMPANY QUESTION SUBMITTED.] When the question submitted involves the establishment of a building fund for the construction of buildings, or the borrowing or expenditure of money, such proposition must be accompanied by a proposition to levy a tax for the provision or payment thereof, in addition to the usual taxes required to be levied; and no vote adopting the question shall be valid unless it likewise adopts the amount of tax to be levied to meet the appropriation or liability incurred.

§ 4. AMENDMENT.] Section 2409 of the revised codes of the state of North Dakota for 1905 is hereby amended so as to read as follows:

§ 2409. TAX NOT TO EXCEED THREE MILLS ANNUALLY.] The rate of tax levied in pursuance hereof shall in no case exceed three mills on the dollar on the assessed valuation of the county in any one year. When the object is to establish a building fund to aid in the erection of public buildings the rate shall be such as to raise the fund within six years; provided, that the total sum to be so raised, including the then existing indebtedness of the county, shall not exceed five per cent of its valuation according to the last assessment thereof. When the object is to borrow money to aid in the erection of public buildings the rate shall be such as to pay the debt in ten years. When the object is to construct or aid in constructing any road or bridge the annual tax shall not exceed one mill on the dollar of the valuation, and any special tax or taxes levied in pursuance of this article, after becoming delinquent, shall draw the same rate of interest as ordinary taxes levied in pursuance of law.

Approved March 12, 1909.

CHAPTER 68.

[S. B. No. 53—Bessesen]

SALARY OF STATE'S ATTORNEY.

AN ACT to Amend Chapter 75 of the Session Laws of the State of North Dakota for the Year 1907, Prescribing the Salary of the State's Attorney, Assistant and Clerk.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 75 of the session laws of the state of North Dakota for the year 1907, is hereby amended to read as follows:

§ 2578. SALARY OF STATE'S ATTORNEY, ASSISTANT AND CLERK.] As compensation for his services the state's attorney shall be paid in all counties an annual salary, based on the assessed valuation as follows: In counties having a valuation under five hundred thousand dollars, three hundred dollars; over five hundred thousand dollars, and under one million dollars, five hundred dollars; over one million dollars and under one million five hundred thousand dollars, six hundred dollars; over one million five hundred thousand dollars and under two million dollars, seven hundred dollars; over two million dollars and under two million five hundred thousand dollars, eight hundred dollars; over two million five hundred thousand dollars and under three million dollars, one thousand dollars; over three million dollars and under five million dollars, twelve hundred dollars; over five million dollars and under seven million dollars, fifteen hundred dollars; over seven million dollars and under eight million dollars, seventeen hundred and fifty dollars, and in all counties having a valuation of over eight million dollars, two thousand dollars for his personal services; provided, that in counties of over nine million dollars assessed valuation, an assistant state's attorney shall be appointed by the state's attorney, who shall receive a salary fixed by the county commissioners, and in counties of over nine million dollars assessed valuation, the county commissioners may, whenever they deem necessary and for such time as they may deem necessary, by resolution authorize the state's attorney to appoint a clerk, who shall be subject to discharge by the state's attorney and whose salary shall be fixed by the county commissioners and paid by the county. In counties of less than nine million dollars assessed valuation, the salary of the assistant state's attorney, if one is allowed by the county commissioners, may be fixed by the county commissioners, and in such counties of less than nine million dollars assessed valuation, the county commissioners may, whenever they deem it necessary and

for such time as they deem necessary, by resolution, authorize the state's attorney to appoint a clerk in lieu of an assistant state's attorney, which clerk shall be subject to discharge at any time by the state's attorney, and whose salary shall be fixed by the county commissioners and paid by the county.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no law providing for the employment of a clerk in the office of the state's attorney, therefore, this act shall take effect and be in force immediately after its passage and approval.

Approved February 18, 1909.

CHAPTER 69.

[S. B. No. 197—Palmer]

STATE'S ATTORNEY'S CONTINGENT FUND.

AN ACT to Amend Section 6 of Chapter 76 of the Laws of North Dakota, 1907, Relating to Contingent Fund for State's Attorney.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section six, of chapter 76, of the laws of North Dakota, 1907, is hereby amended and re-enacted to read as follows:

§ 6. UNEXPENDED BALANCE.] Any sum remaining in said fund on the thirty-first day of December of each year shall then be transferred by the county auditor to the general county revenue fund of said county.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 16, 1909.

CHAPTER 70.

[H. B. No. 25—McCrea]

INVESTMENT OF COUNTY SINKING FUNDS.

AN ACT to Amend Section 2439 of the Revised Codes of 1905, as Amended by Chapter 92 of the 1907 Session Laws, Relating to Sinking Funds and the Duty of County Commissioners Pertaining Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2439 of the revised codes of 1905, as amended by chapter 92 of the 1907 session laws, be and the same is hereby amended so as to read as follows:

§ 2439. SINKING FUND. DUTY OF COUNTY COMMISSIONERS.] Whenever there shall be accumulated in the sinking fund, or any other revenue county funds established by law, in any of the counties of this state an amount of money exceeding one thousand dollars, and for which there is no immediate use, the board of county commissioners of such county are authorized and empowered to direct a time deposit of such funds for a period of one year, as they may deem expedient, either in one or more of the county depositaries as created by law, or such state or national bank as the said board of county commissioners may designate; provided, that the rate of interest offered by banks making bids for sinking funds shall not be less than two per cent nor more than five per cent per annum.

Approved February 6, 1909.

COURTS

CHAPTER 71.

[H. B. No. 190—Skulason]

CHIEF JUSTICE SUPREME COURT.

AN ACT Providing for the Office of Chief Justice of the Supreme Court, and Prescribing the Duties of the Chief Justice.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. JUDGE HAVING THE SHORTEST TERM SHALL BE CHIEF JUSTICE. DUTIES.] The judge of the supreme court having the shortest term to serve, not holding office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the supreme court; provided, that whenever no member of said court is qualified for the office of chief justice under the above provisions, then the judges of said court shall select the chief justice. In the absence of the chief justice the judge having the next shortest term to serve, or a judge selected by the court, as the case may be, shall preside in his stead.

Approved March 16, 1909.

CHAPTER 72.

[S. B. No. 39—LaMoure]

SUPREME COURT TERMS.

AN ACT Fixing the Times and Place for Holding the General Terms of the Supreme Court and Providing for Special Terms in Certain Cases.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HELD AT SEAT OF GOVERNMENT.] There shall be two general terms of the supreme court held at the seat of government each year, to be known as the April and October terms. The April term shall be held on the first Tuesday in April of each year, and the October term on the first Tuesday in October of each year; provided, that nothing herein contained shall prevent the holding of special terms at cities other than Bismarck, whenever in the opinion of the court, or a majority of the judges thereof, the public interests require a special term held elsewhere, which special term shall be held at a time and place to be determined and by giving twenty days' previous notice thereof by advertisement in a newspaper published at the seat of government.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act, and especially sections 440, 441 and 442 of the revised codes of 1905, are hereby repealed.

Approved February 18, 1909.

CHAPTER 73.

[S. B. No. 202—Sharpe]

SALARY CLERK SUPREME COURT.

AN ACT Fixing the Salary of the Clerk of the Supreme Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALARY FIXED.] Until otherwise provided by law and commencing January 1, 1909, the annual salary of the clerk of the supreme court is hereby fixed at two thousand dollars per year, which said salary shall be paid by the state auditor monthly as other state officers' salaries are paid.

Approved March 15, 1909.

CHAPTER 74.

[H. B. No. 116—Kneeland]

TERMS OF COURT IN FIFTH JUDICIAL DISTRICT.

AN ACT to Amend Section 473 of the Revised Codes of North Dakota of 1905, Relating to the Boundaries and Terms of Court in the Fifth Judicial District.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 473 of the revised codes of North Dakota is hereby amended to read as follows:

§ 473. BOUNDARIES AND TERMS OF COURT.] The fifth judicial district shall consist of the counties of Stutsman, Barnes, LaMoure, Griggs, Foster, Eddy, Wells and Logan, and two terms of the district court shall be held each year at the county seat of each of such counties as follows:

In Stutsman county, commencing on the second Monday in June and the second Monday in December.

In Barnes county, commencing on the first Monday in January and the first Monday in July.

In LaMoure county, commencing on the first Monday in February and the fourth Monday in September.

In Griggs county, commencing on the second Monday in May and the second Monday in November.

In Foster county, commencing on the first Monday in May and the second Monday in October.

In Eddy county, commencing on the fourth Monday in May and the fourth Monday in November.

In Wells county, commencing on the third Monday in January and the third Monday in July.

In Logan county, commencing on the fourth Monday in April and the fourth Monday in October.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the judicial business of Stutsman county requires that a term of court should be held therein prior to December, 1909, therefore this act shall take effect and be in force after its passage and approval.

Approved March 11, 1909.

CHAPTER 75.

[S. B. No. 105—McLean]

TERMS OF COURT IN SEVENTH JUDICIAL DISTRICT.

AN ACT to Amend Section 475 of the Revised Codes of 1905, Being the Section Relative to the Boundaries and Terms of Court in the Seventh Judicial District of the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 475 of the revised codes of 1905 for the state of North Dakota is hereby amended so as to read as follows:

§ 475. BOUNDARIES AND TERMS OF COURT.] The seventh judicial district consists of the counties of Pembina, Walsh and Cavalier and terms of court shall be held in each of said counties in each year as follows:

In the county of Pembina, at Pembina, commencing on the first Tuesday in January, the first Tuesday in June, the first Tuesday in April, and the first Tuesday in October; provided, that at the terms to be held in the months of April and October no jury shall be called unless called by the court for the trial of criminal cases.

In the county of Cavalier, at Langdon, commencing on the first Tuesday in December, the second Tuesday in June, the first Tuesday in March, and the second Tuesday in September; provided, that at the terms to be held in the months of March and September no jury shall be called unless called by the court for the trial of criminal cases.

In the county of Walsh, at Grafton, commencing on the fourth Tuesday in January, the fourth Tuesday in June, the third Tuesday in November, and the third Tuesday in March; provided, that at the terms appointed to be held in the months of March and November no jury shall be called unless called by the court for the trial of criminal cases.

Approved March 5, 1909.

CHAPTER 76.

[S. B. No. 170—Gronvold]

COURT IN NINTH JUDICIAL DISTRICT.

AN ACT to Amend Chapter 161 of the Session Laws of 1907, Relating to the Boundaries of the Second, Eighth and Ninth Judicial Districts, and Providing for Terms of Court in Said Districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section three of chapter 161 of the session laws of 1907, relating to terms of court in the second, eighth and ninth judicial districts of the state of North Dakota, is hereby amended to read as follows:

§ 3. TERMS OF COURT.] The terms of the district court for the second and eighth judicial districts shall remain as now fixed.

The terms of the district court in the ninth judicial district shall be held at the county seat of each county in said district, as follows:

In the county of Bottineau, on the second Monday in February, the fourth Monday in April, the fourth Monday in June, the third Monday in September, and the third Monday of November of each year; provided, that no jury shall be called for the terms of court beginning on the fourth Monday in April, the fourth Monday in June and the third Monday in September, except in the discretion of the district judge.

In the county of McHenry on the second Monday in March, the second Monday in May and the third Monday in July, the first Monday in October and the third Monday in December of each year; provided, that no jury shall be called for the terms of court beginning the second Monday in May, the third Monday in July, and the first Monday in October, except in the discretion of the district judge.

In the county of Pierce on the third Monday in January, the first Monday in April, the first Monday in June, the first Monday in September and the third Monday in October of each year; provided, that no jury shall be called for the terms of court beginning the first Monday in April, the first Monday in September, and the third Monday in October, except in the discretion of the district judge.

Any terms of court now called for the ninth judicial district by the presiding judges of the second and eighth judicial districts shall be duly held, unless continued by the judge of the ninth judicial district, for cause.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that it is necessary for the perfection of court work in said ninth judicial district, that this amendment take effect prior to July 1, 1909, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 17, 1909.

CHAPTER 77.

[S. B. No. 225—Simpson]

TERMS OF COURT IN TENTH DISTRICT.

AN ACT Defining the Tenth Judicial District, and Providing for Terms of Court Therein.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINED. TERMS OF COURT.] The tenth judicial district consists of the counties of Morton, Stark, Oliver, Mercer, Billings, Dunn, Hettinger, Bowman, Adams and McKenzie, and all that portion of the Sioux Indian reservation lying north of the seventh standard parallel in North Dakota, and is divided into judicial subdivisions as follows:

1. The first subdivision consists of the county of Morton and all that portion of the Sioux Indian reservation lying north of the seventh standard parallel, and three terms of the district court shall be held each year at Mandan, the county seat of said county, commencing on the first Tuesday in May, the first Tuesday in February and the second Tuesday in November; provided, that no jury shall be called for the February term, except upon order of the judge of the court for the trial of criminal cases.

2. The second subdivision consists of the county of Stark, and three terms of the district court shall be held therein each year at Dickinson, the county seat of said county, commencing on the third Tuesday in May, the second Tuesday in September and the first Tuesday in December; provided, that no jury shall be summoned for the September term, except upon order of the judge of said court for the trial of criminal cases.

3. The third subdivision consists of the county of Oliver, and two terms of the district court shall be held therein each year at the county seat of said county at such times as the judge of said court shall direct.

4. The fourth subdivision consists of the county of Mercer, and two terms of the district court shall be held each year at the county seat of said county, commencing on the third Tuesday in June and the fourth Tuesday in October.

5. The fifth subdivision consists of the county of Billings, and two terms of the district court shall be held therein each year at Medora, the county seat of said county, commencing on the second Tuesday in January and the first Tuesday in June.

6. The sixth subdivision consists of the county of Dunn, and two terms of the district court shall be held therein each year at the county seat of said county at such times as the judge of said court shall direct.

7. The seventh subdivision consists of the county of Hettinger, and two terms of the district court shall be held each year at Mott, the county seat of said county, at such times as the judge of said court may direct.

8. The eighth subdivision consists of the county of Bowman and two terms of the district court shall be held therein each year at Bowman, the county seat of said county, at such times as the judge of said court shall direct.

9. The ninth subdivision consists of the county of Adams, and two terms of the district court shall be held therein each year at Hettinger, the county seat of said county, commencing on the first Tuesday in April and the second Tuesday in October.

10. The tenth subdivision consists of the county of McKenzie, and two terms of the district court shall be held therein each year at the county seat of said county at such times as the judge of said court may direct.

§ 2. CHAMBERS OF JUDGE.] The court of the tenth judicial district shall, excepting such times as the court is actually engaged in the holding of a term of court in any of the counties of said district, have its chambers for the purpose of holding and transacting such business as may come before it in the counties of Morton and Stark, respectively, at the county seats of said counties as follows:

(a) In the county of Morton on the first Monday in the months of January, March, May, July, September and November.

(b) In the county of Stark on the first Monday in the months of February, April, June, August, October and December.

§ 3. EMERGENCY.] An emergency exists in this, that within the tenth judicial district new counties have recently become organized, and there is no law fixing times of holding court therein, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1909.

CHAPTER 78.

[S. B. No. 205—McArthur]

COUNTY COURT.

AN ACT to Amend Section 8288 of the Revised Codes of 1905, of the State of North Dakota, Relating to the Increased Jurisdiction of the County Courts, and Providing for Abolishing the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8288 of the revised codes of 1905, of the state of North Dakota, be and the same is hereby amended and re-enacted to read as follows:

§ 8288. MAY HAVE INCREASED JURISDICTION, HOW.] Whenever the board of county commissioners of any county shall be presented with a petition signed by at least twenty per cent of the qualified voters and tax payers of said county, praying for the submission to the voters of the county of the question whether the county court of said county shall have increased jurisdiction, and in counties having such increased jurisdiction whether the same shall be abolished, it shall be the duty of said board to cause the same to be submitted to the voters of the county at the next general election; provided, that said board may in its discretion call a special election to determine said question. Notice of said special election shall be given by publishing a notice of the same, stating the object of said election, in three newspapers in the county once each week, for three successive weeks; provided, that the last publication shall be at least ten days, and not more than fifteen days, immediately preceding said election. In case there are not three newspapers published in the county, then said notice shall be published in such newspapers as are situated in said county and in not more than the three nearest newspapers published in adjoining counties. The petition presented to the board of county commissioners, as provided in this chapter, must show the population of said county to be at least two thousand, that the petitioners are qualified voters and taxpayers of said county and must be verified by at least three of the petitioners showing these facts; provided, further, that a majority of the highest number of votes cast at such election on any proposition whatever, shall be necessary to carry such question of increased jurisdiction or abolishing same; and provided, further, that an election for the purpose of abolishing such increased jurisdiction of the county court shall not be held oftener than once in six years.

§ 2. WHEN DECREASED JURISDICTION BECOMES OPERATIVE.] Whenever an election shall have been held under section one of this act, and the result thereof shall be, that said county courts of increased jurisdiction shall be reduced to that of courts of probate procedure as specified in section 7889, of the probate code of 1905, then said reduction shall take place at the expiration of the term for which the then presiding judge is elected.

§ 3. DUTY OF DISTRICT COURT.] Whenever there shall have been a reduction in the powers of the county court of increased jurisdiction any cases left untried, or any unfinished business upon the calendar of the court, and not properly triable in the probate court, shall be continued over and placed upon the calendar of the district court of the judicial district in which said county is situated, without prejudice thereto, and such transfer shall in all things operate the same as if said causes had been originally filed in said district court, and the court on its own motion shall direct and authorize said actions to be entitled in the district court.

§ 4. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 15, 1909.

CHAPTER 79.

[H. B. No. 66—White]

BONDS IN COUNTY COURT.

AN ACT to Amend Section 8049 of the Revised Codes of North Dakota of 1905, Relating to the Bonds of Executors, Administrators and Guardians.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8049 of the revised codes of 1905, relating to the bonds of executors, administrators, and guardians, is amended to read as follows:

§ 8049. BOND. JUSTIFICATION.] Every executor, administrator or guardian must give bond to the state of North Dakota for the benefit of all persons interested in the estate in such sum as the court prescribes, with sufficient sureties to be approved by the judge; and conditioned for the faithful discharge of all the duties of the trust imposed on him by law or by order of the court according to law. Except as otherwise specially prescribed by law the required sum must not be less than twice the aggregate value, as ascertained by the court, of the personal property and the rents, profits and income for one year of the real property, belonging to the estate. Every bond must be held to be the joint and several contract of the principal and sureties executing the same, notwithstanding any express provisions therein to the contrary; provided, however, that whenever, by partial distribution or otherwise, the assets in the hands of any executor, administrator or guardian are reduced, and it is necessary to continue the trust for a period longer than one year from the time of the appointment of such executor, administrator or guardian, the county court, in its discretion, may accept from executor, administrator or guardian, a bond for a reduced amount, in twice the aggregate value as ascertained by the court of the personal property and the rents, profits and income for one year of the real property then in the hands of such executor, administrator or guardian, and upon full accounting by such executor, administrator or guardian the bond first given may be released as to future liability, and the bond in the reduced amount so taken, shall stand as the bond of such person; provided, however, that the release of such prior bond, shall in no way discharge the obligors therein from liability by reason of any default occuring prior to such discharge.

Approved March 16, 1909.

CHAPTER 80.

[H. B. No. 284—Kneeland]

PRACTICE IN COUNTY COURT.

AN ACT Regulating the Practice in County Courts Having Increased Jurisdiction and All Matters Relating Thereto; Fixing the Terms of Court, Compensation of Judges and Clerks, and Other Officers of Said Courts and Their Duties, and Repealing Sections 8289 to 8319, Inclusive, of the Revised Codes of 1905 of the State of North Dakota, and Chapter 68, Laws of 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. JURISDICTION.] The county court shall have concurrent jurisdiction with the district court in all civil actions where the amount in controversy does not exceed one thousand dollars and in all criminal actions below the grade of felony.

§ 2. GENERAL PROVISIONS TO APPLY.] The general provisions of law which may at any time be in force relating to the district courts and to civil and criminal proceedings therein shall also relate to the county courts having increased jurisdiction, and the rules of practice of district courts shall be in force in said county courts, unless inapplicable and except as herein otherwise provided.

§ 3. PROVISIONAL REMEDIES TO BE GRANTED.] In all actions in county courts having increased jurisdiction in this state the proper parties shall be entitled to the benefit of the provisional remedies of arrest and bail, claim and delivery of personal property, attachment, garnishment and deposit, and, except as otherwise provided in this act, the procedure in such remedies shall be the same as provided for in chapter nine of the code of civil procedure of the revised codes of 1905, the powers therein given and duties imposed on sheriffs being hereby extended to constables, and the powers hereby given and the duties imposed on clerks of the district court are hereby extended to clerks of the county court, and the powers therein given and the duties imposed on a judge of the district court are hereby extended to a judge of a county court having increased jurisdiction.

§ 4. CONCURRENT JURISDICTION ON APPEAL.] Such county courts shall have concurrent jurisdiction with the district courts in appeals from all final judgments of justices of the peace, police, city or township justices, and the proceedings on such appeals shall be the same as now or may hereafter be provided for appeals from judgments of justices of the peace to district courts.

§ 5. POWER OF COUNTY JUDGE.] The county judge also possesses the same power and authority in any action or proceeding, which can be lawfully instituted before him, out of court, which a

judge of the district court possesses in a like action or proceeding, instituted before him in like manner. In all civil actions tried to the court without a jury or wherein a trial by jury is waived, the judge of such county court, upon consent of all parties to the action, may hear testimony and take evidence in any part of his county.

§ 6. CALENDAR.] The county judge shall, on the first day of each term, or as soon thereafter as may be, prepare a calendar of the causes standing for trial at such term, placing the causes upon such calendar in the order in which the same are numbered on the docket and setting the causes for trial upon convenient days during such term; provided, that no cause shall be set for trial upon the first day of said term without the consent of all parties thereto.

§ 7. CONTINUED CASES.] When for any cause the county judge fails to attend at the commencement of any regular term or at the time to which any cause is assigned for trial or at the time to which any cause may be continued, the parties shall not be obliged to wait more than one hour, and if he does not attend within the hour and no other disposition of the case is made by the judge, the parties in attendance shall be required to attend at nine o'clock a. m. of the following day, and if such judge shall not attend at that time, the cause shall stand continued until the first day of the next regular term.

§ 8. ADJOURNMENT.] The time for which any civil action may be adjourned shall be regulated by the county judge in the exercise of a reasonable discretion; provided, that such action cannot be adjourned over more than three regular terms of such court upon the application of either party without the consent of the other. In criminal actions, if the defendant has been committed to jail, he must be tried at the first jury term of such court held after such commitment. If the defendant, in a criminal action has given bail for his appearance, his trial must not be postponed longer than until the third term after such bail is given.

§ 9. TERMS OF COURT.] The regular terms of the county court shall be held at the county seat, commencing on the first Tuesday of each calendar month, for the trial of such civil and criminal cases as may be brought before such court; and a jury may be called at any regular term when, in the opinion of the county judge, there is a sufficient number of jury cases for trial to warrant the calling of such jury; provided, that no jury shall be called for any term at which there is not one or more criminal cases, or five or more civil jury cases for trial.

§ 10. MANNER OF SELECTING JURY.] Jurors in the county court having increased jurisdiction shall be selected in the same manner and by the same officers and from the same jury list as if the jurors were to be selected for the district court, and all of the laws relating to the selection of jurors in the district court are hereby made applicable to the selection of jurors in the county court, and each

party shall be entitled to the same number of challenges as are now or may hereafter be allowed in the district court in like actions.

§ 11. JURY MAY BE REQUIRED TO ATTEND SUBSEQUENT TERMS.] Any jury so summoned may at the discretion of the judge of such county court be required to attend at any subsequent adjourned or regular term of such court not exceeding in all one calendar year. Jurors shall attend without service of venire or summons upon receipt of a notice from the clerk of such court stating the date on which his appearance is required, which notice may be served by registered mail.

§ 12. BAILIFF.] The judge of the county court may appoint one or more competent persons as bailiffs of the court, who shall hold such office at the pleasure of the judge. Such bailiff shall have the same powers as a constable, and shall receive for his services the same fees as are prescribed for constables.

§ 13. PROCESS, BY WHOM SERVED AND COMPENSATION.] All writs and processes in county courts may be served by a constable as well as a sheriff, and when served by a constable, he shall be entitled to the same fees as the sheriff receives for like service.

§ 14. JUDGMENT LIEN. ABSTRACT.] The clerk of the county court, on the demand of a party in whose favor a judgment shall have been rendered in that court, must give a certified abstract thereof, in substantially the form prescribed by section 8446 of the justice's code, which abstract may be filed in the office of the clerk of the district court of the county or sub-division in which the judgment was rendered, and the clerk of such district court must thereupon enter such judgment in the judgment book, and upon the judgment docket; and from the time of the docketing thereof, it becomes a judgment of such district court for the purposes of execution and a lien upon real property owned by the debtor; and a certified transcript of the docket of such judgment may be filed and the judgment docketed accordingly in any other county or subdivision with the same effect in every respect as if the judgment had been rendered in the district court where such judgment is filed. No execution shall issue out of the county court upon any judgment upon which an abstract has been issued and filed in the district court of that county.

§ 15. REQUISITES OF SUMMONS.] The summons must contain the title of the action, specifying the court in which the action is brought, the name of the parties to the action, and shall be subscribed by the plaintiff or his attorney, who must add to his signature his address, specifying a place within the state where there is a post office. The summons shall be substantially in the following form, the blanks being properly filled:

State of North Dakota, } ss In County Court.
County of }

A. B. Plaintiff.

vs.

C. D. Defendant.

Summons.

The state of North Dakota to the above named defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer upon the subscriber within ten days after the service of this summons upon you, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated

§ 16. [FILING AND SERVICE OF PLEADINGS.] The complaint need not be served with the summons, but it shall be in all cases filed in the office of the clerk of the county court within ten days after the service of the summons upon the defendant. If, within ten days after the service of the summons upon the defendant, he causes notice of appearance to be given, or in person or by attorney demands in writing, a copy of the complaint, specifying a place within the state where it may be served, a copy thereof must, within ten days thereafter, be served accordingly; and the defendant may demur or answer to the complaint in all cases within ten days after the service of a copy thereof on him; and if a reply is necessary, it shall be served within ten days after the service of the answer. The answer, if any, must, in all instances, be filed in the office of the clerk of the county court within ten days after its service upon the plaintiff or his attorney, and if a reply is served, the same must be likewise filed in the office of such clerk within ten days after its service upon the defendant's attorney; provided, however, that if the time for serving a reply expires within the ten days immediately preceding the commencement of any regular term of said court, such reply may be filed at any time before the first day of such term.

§ 17. SERVICE BY PUBLICATION.] The summons in a civil action may be served by publication thereof, and the practice with respect to such service shall be the same as provided in the code of civil procedure for service of summons by publication, except as provided in the next succeeding section of this act.

§ 18. PUBLICATION. MAILING COMPLAINT.] Service of the summons by publication shall be made by publishing the same three times, once in each week for three successive weeks, in a newspaper published in the county in which the action is pending, and if no newspaper is published in such county, then in a newspaper published at the seat of government of this state. The first publication of the summons must be made within twenty days after the filing of

the affidavit for publication, and a copy of the summons and complaint must, within ten days after the first publication of the summons, be deposited in some post office in this state, postage prepaid, and directed to the defendant to be served at his place of residence, unless the affidavit for publication states that the residence of the defendant is unknown. Such copy of summons and complaint may be mailed by registered letter, in which case the return of registry receipt of the post office department, shall be prima facie proof of its mailing and its receipt by the defendant to whom it is mailed.

§ 19. SERVICE OUTSIDE OF THE STATE.] After the filing of the affidavit for publication, and the complaint in any civil action personal service of the summons and complaint upon the defendant outside of the state, if made within twenty days after the filing of such affidavit, shall be equivalent to and have the same force and effect as the publication and mailing thereof hereinbefore provided for.

§ 20. WHEN SERVICE COMPLETE.] Service by publication is complete upon the expiration of twenty-one days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant outside of the state, upon the expiration of ten days after the date of such service.

§ 21. PROCESS MAY BE SERVED IN ANY COUNTY.] A county court having increased jurisdiction has power in any civil action within its jurisdiction, to send its process into any county of the state for service or execution, and to enforce obedience thereto with like power and authority as the district court; and all writs, summons and other process may be executed and served in any county of this state, except that no execution upon any judgment in a civil action shall issue out of any county court after an abstract of such judgment has been filed in the district court of the county where the judgment was rendered.

§ 22. TIME OF TRIAL. NOTICE.] It shall not be necessary to serve a notice of trial or file a note of issue in any civil action in a county court having increased jurisdiction, and in all cases where the answer to the complaint in such action has been filed at least ten days before the time of commencement of any regular term of such court, such action shall be placed upon the calendar and stand for trial at that time. When the time to answer does not expire at least ten days before the first day of the next regular term of such court, the cause shall stand for trial at the next succeeding term thereof.

§ 23. GARNISHMENT SUMMONS.] In all garnishment proceedings the plaintiff shall attach to his affidavit for garnishment a garnishment summons, which shall be substantially in the following form:

State of North Dakota, } ss In County Court.
County of}
A. B.....Plaintiff
vs
C. D.....Defendant, and
E. F.....Garnishee.

The state of North Dakota to the said garnishee:

You are hereby summoned, pursuant to the annexed affidavit, as a garnishee of the defendant, C. D., and required within ten days after the service of this summons upon you, exclusive of the day of service, to answer according to law, whether you are indebted to or have in your possession or under your control any property, real or personal, belonging to such defendant, and to serve a copy of your answer on the undersigned at in the county of; and in case of your failure so to do, you will be liable to further proceedings according to law; of which the said defendant will also take notice.

Dated

L. M., Plaintiff's Attorney.
P. O. address county, N. D.

§ 24. ANSWER OF GARNISHEE.] The affidavit or answer of the garnishee must be served upon the attorney for the plaintiff within ten days after service of the garnishment summons, and such answer must be filed in the office of the clerk of the county court the same as other pleadings in a civil action.

§ 25. PLACE OF TRIAL OF CIVIL ACTION.] The place of trial of all civil actions shall be governed by chapter six of the code of civil procedure of the 1905 revised codes of the state of North Dakota, and an action may be commenced in the county court of any county in the state, subject to removal for cause. If the county designated for that purpose in the summons and complaint is not the proper county, the action may, notwithstanding, be tried therein unless the defendant before the time for answering expires demands in writing that the trial be had in the proper county, and the place of trial be thereupon changed by consent of the parties, or by order of the court as provided in this section. The court may change the place of trial in the following cases:

1. When the county designated for that purpose in the complaint is not the proper county.
2. When there is reason to believe that an impartial trial cannot be had therein.
3. When convenience of witnesses and the ends of justice would be promoted by the change; provided, however, that if the county to which a change of venue is demanded or ordered as herein-above provided, does not have a county court with increased jurisdiction, in that event a change of venue shall be granted and had to the district court of the proper county, and said action shall be tried and

determined in said district court as if the same had originally been commenced in such district court, but costs shall be taxed and allowed as in a county court having increased jurisdiction.

§ 26. PREJUDICE OF JUDGE. AFFIDAVIT. PROCEDURE.] Whenever the defendant, in a criminal action shall, before the opening of any term in which the case appears on the calendar for trial, file his affidavit stating that he has good reason to believe and does believe that he cannot have a fair and impartial trial of such action on account of the bias or prejudice of the judge of the county court in which said action is pending, the court shall thereafter proceed in said action, as follows:

1. The court may request, arrange and procure the judge of another county having a county court with increased jurisdiction, to preside at said trial in the county in which the action is pending. A change upon the ground in this section provided for must be asked at the time hereinafter provided and not more than one change can be granted therefor; but if a trial has been had without a verdict, a change for the cause provided for in this section may be had if asked for at the term at which said trial was had and before another trial of the action is begun; provided, that the county judge before whom said affidavit is filed may in his discretion in lieu thereof certify all proceedings to the district court.

2. The actual expenses of a county judge, procured under the provisions of this section, while traveling to and from the county to which he has been called and during the trial of the cause, shall be paid by the county in which the action was pending.

3. When either party to a civil action pending in any of the county courts having increased jurisdiction, in this state, shall, after issue is joined and before the opening of any term at which the cause is to be tried, file an affidavit, corroborated by the affidavit of his attorney in such cause and that of at least one reputable person, stating that there is good reason to believe that such party cannot have a fair and impartial trial of said action by reason of the prejudice, bias or interest of the judge of the county [court] in which the action is pending, the court shall proceed no further in the action, but shall forthwith request, arrange for and procure the county judge of some other county of the state having a county court of increased jurisdiction to preside at such trial in the county in which the action is pending. The actual expenses of such judge while in attendance upon the trial of the cause for which the change was had and the extra expense of the court and jury, incurred by reason of said change, shall be paid by the person asking for the change, in advance, or a bond, to be approved by the clerk of the county court, given therefor, the amount of said bond being fixed by the presiding judge; provided, that not more than one such change shall be granted on the application of either party; and provided, that the county judge before whom said affidavit is filed may

in his discretion in lieu thereof certify all proceedings to the district court. A failure to file the affidavit of prejudice hereinbefore mentioned within the time before specified in any criminal or civil action shall constitute a waiver of all objections to the trial of such action by the presiding judge of such county court.

§ 27. JURY TRIAL TO BE DEMANDED.] In all civil actions wherein there are issues of fact triable to a jury, either party may demand a jury trial, but such demand must be made in writing and filed in the office of the clerk of the county court, on or before the first day of the term at which said cause may be tried. A failure to file such demand shall be deemed an express waiver of the right to a jury trial in such action.

§ 28. COSTS.] When the prevailing party in a civil action has appeared therein by an attorney duly authorized to practice in the courts of this state, there shall be allowed for his reimbursement and taxed as a part of the costs, the same sums as provided by section 8445 of the revised codes of 1905 in like cases; and in all cases there shall be allowed such other costs as are provided in the code of civil procedure.

§ 29. FEES OF CLERKS.] Clerks of county courts having increased jurisdiction shall collect for their services in all civil and criminal proceedings the same fees as provided for in the fee bill for the clerk of the district court, except as follows: Clerks of county courts shall collect for all default judgments in civil actions, including all fees prior to execution, the sum of one dollar and fifty cents and no more, and for a certified abstract or transcript of any judgment in any civil action, the sum of fifty cents and no more. The clerk of the county court shall require a deposit of three dollars at the time of the filing in this court of any civil action and may thereafter require from time to time additional deposits to cover his fees as they may accumulate, and upon the entry of judgment in any such action, the clerk of said court shall refund to the proper party, the amount of all such deposits in excess of his legal fees accrued in said action.

§ 30. NEW TRIALS.] The county court shall have authority to grant new trials, judgments notwithstanding the verdict, to vacate and set aside verdicts, affirm, modify or set aside judgments in actions tried in such court in the same manner and pursuant to the same statutes, rules and regulations now prescribed by law for the district courts, and a statement of the case may be prepared and settled in the manner prescribed in the code of civil procedure.

§ 31. APPEALS FROM COUNTY COURT.] In all actions brought under the provisions of this chapter an appeal may be taken to the supreme court of the state in the same manner and pursuant to the same rules as appeals from the district court.

§ 32. DEFENDANT BOUND OVER TO.] In any criminal action or proceeding for any criminal offense of which the county court has

jurisdiction, any justice of the peace or other examining magistrate having jurisdiction must admit to bail, bind over or commit for trial the accused to the county court of such county and the information shall be filed in such county court. If any person accused of a criminal offense is so bailed, bound over or committed for trial to the county court for a crime of which such court has not jurisdiction, such proceedings shall not abate and such county court shall not lose jurisdiction of such person and proceedings, but shall certify the same to the district court of such county and such proceedings shall thereupon be tried in the district court with the same force and effect as if such action or proceeding had been originally commenced therein. If any examining magistrate shall at any time bind over a defendant to the district court for an offense of which the county court has jurisdiction or if it shall appear by evidence or otherwise at any time to the judge of the district court that the offense with which the defendant is or should be charged is triable in the county court, the judge of the district court may certify such cause and all proceedings relative to any person accused of such offense to the county court of such county for trial, determination and adjudication, and thereupon the same and all the papers and files therein shall be transferred by the clerk of the district court to the county court without any further order or certificate and such shall thereupon be tried in the county court with the same force and effect as if said cause had originally been commenced therein.

§ 33. WARRANT OF ARREST.] The county court in term time or the judge in vacation may issue warrants of arrest for persons against whom an information has been filed, shall fix the amount of bail to be required of the accused and the clerk shall indorse the same upon the warrant except when the warrant is issued in term time, when the same may be returnable forthwith and it shall not then be necessary to fix the amount of bail until the accused is brought into court.

§ 34. RECEIVE PLEA AND PASS JUDGMENT.] The court may receive the plea of guilty and pass judgment in term time or vacation. If the accused waives a jury he may be tried by the court without a jury in term time upon notice being given first to the state's attorney.

§ 35. PRELIMINARY EXAMINATION.] No preliminary examination shall be necessary before trial in criminal actions in the county court. The judge of a county court having increased jurisdiction may act as a committing magistrate, and hold preliminary examinations in any part of his county.

§ 36. ASSIGNMENT OF COUNSEL.] In all criminal cases triable in the county court when it is satisfactorily shown to the court that the defendant has no means and is unable to employ counsel, the court shall in such cases assign counsel for the defense and al-

low and direct to be paid by the county in which said court is held, a reasonable and just compensation to the attorney or attorneys assigned for such services as they may render; provided, however, that such compensation shall not exceed twenty-five dollars in any one case.

§ 37. JURY TRIAL.] In all criminal actions the defendant shall be entitled to a trial by jury, and when the defendant is arraigned he shall be informed by the court of his right to trial by jury and if he waives his right to a jury trial an entry to that effect shall be made on the court minutes and the defendant shall be tried to the court.

§ 38. JURY IN CRIMINAL ACTION, HOW COMPOSED.] The jury in all criminal cases shall be composed of twelve residents of the county having the qualifications of jurors, and the jurors above mentioned shall be selected, summoned and empaneled as hereinabove specified; provided, that each party shall be entitled to the same number of challenges as is now or may hereafter be allowed in the district court in like actions.

§ 39. NEW TRIALS IN CRIMINAL ACTIONS.] In all criminal actions or proceedings brought in a county court having increased jurisdiction, the county court shall have authority to grant new trials, vacate and set aside verdicts and entertain motions in arrests of judgments in the same manner and pursuant to the same statutes, rules and regulations now prescribed by law for the district courts, and a statement of the case may be prepared and settled in the same manner prescribed in the code of criminal procedure.

§ 40. APPEALS FROM COUNTY COURT IN CRIMINAL ACTIONS.] In all criminal actions brought in a county court having increased jurisdiction, an appeal may be taken to the supreme court in the same manner and pursuant to the same rules as appeals from the district court to the supreme court.

§ 41. CLERK OF DISTRICT COURT EX-OFFICIO CLERK OF COUNTY COURT.] In all counties having county courts with increased jurisdiction the clerk of the district court shall be the clerk of the county court in the same county. Such clerks of the district court and their deputies shall perform all the duties of clerks of such courts, in all actions and proceedings commenced in the county court by virtue of its increased jurisdiction, in the same manner as they are required to perform the duties of clerks of the district court, so far as the provisions of the law relating to that subject are applicable, and may demand, receive and retain the fees provided for clerks of district courts, except as herein otherwise provided, and the fees so paid shall be retained by the clerk of the district court as and for compensation for the services rendered by him as the clerk of such county court; provided, however, that they shall be entitled to receive no per diem for attendance on court, nor salary from the county on account of services performed in

said court. The judge of a county court having increased jurisdiction in counties having a population of not less than fifteen thousand, shall have power to appoint a clerk of such court, whose duties and powers shall be as nearly as may be the same as those of the clerks of the district courts. Such clerk shall hold his office during the pleasure of the judge appointing him; and in counties having a population of less than eighteen thousand, the salary of such clerk shall be twelve hundred dollars per year, and in counties having a population of more than eighteen thousand such clerk shall receive a salary of fifteen hundred dollars per year, such salary to be paid by the county monthly in the same manner as the salaries of other county officers are paid. He shall charge and receive for acts performed by him the same fees and commissions as are now allowed by law to clerks of district courts, except as modified by the provisions of this act. He shall keep a true account of all commissions and fees received by him in a book of record, to be kept for that purpose, and on the first day of each calendar month, shall pay all such fees and commissions to the treasurer of the county.

§ 42. CUSTODY OF RECORDS.] The judge of the county court shall have the care and custody of all records of the court which relate to actions or proceedings within its civil and criminal jurisdiction, and shall be responsible for all acts of any clerk of such court who may be appointed by such judge, and for all fees collected by such appointee; and the judge of such court may require such clerk to give to him a bond conditioned for the faithful performance of all his duties as such clerk, and for the accounting for and payment to the county treasurer of all fees and other moneys collected by him by virtue of his office.

§ 43. POPULATION, HOW DETERMINED.] For the purposes of ascertaining the amount of compensation to be paid to the judges and clerks of the county courts, the county auditor shall determine the population of his county from the latest census of such population taken either by state or federal authority.

§ 44. SALARY OF JUDGE.] As compensation for their services under this chapter, there shall be allowed and paid to the judges of county courts having civil and criminal jurisdiction in addition to the salary provided for such judges of county courts, in counties not having increased jurisdiction, the sum of one hundred dollars for each one thousand inhabitants or fraction thereof; provided, that in no case shall the compensation for all services of the county judge exceed the sum of two thousand five hundred dollars, and said sum shall cover all services under the prohibition law.

§ 45. JUDGE SHALL NOT ACT AS ATTORNEY.] It shall be unlawful for any judge of a county court in counties in which said courts have been or shall or may be given increased jurisdiction, to act as attorney or counselor at law during the period of his in-

cumbency in his office. Any such judge who shall willfully violate the provisions of this section shall be subject to removal from office.

§ 46. COURT STENOGRAPHER.] The judge of any county court having civil or criminal jurisdiction is authorized in his discretion to appoint a court stenographer of such court. Such stenographer shall qualify in the same manner and his duties and compensation shall be the same as the court stenographer of a district court. Such compensation shall be paid in the same manner as that of the court stenographer of the district court; provided, that such court stenographer shall not be appointed in any county having less than eight thousand inhabitants, unless the board of county commissioners shall first authorize such appointment.

§ 47. REPEAL.] Sections 8289, 8290, 8291, 8292, 8293, 8294, 8295, 8296, 8297, 8298, 8299, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8309, 8310, 8311, 8312, 8313, 8314, 8315, 8316, 8317, 8318, and 8319 of the probate code of the revised codes of 1905, of the state of North Dakota, and chapter 68 of the laws of the tenth legislative assembly of said state, are hereby expressly repealed.

Approved March 12, 1909.

CHAPTER 81.

[S. B. No. 156—Overson]

JUSTICE OF THE PEACE.

AN ACT Providing for the Election of Justices of the Peace and Constables in Election Precincts, Comprising One or More Unorganized Townships, on Petition of Ten or More Qualified Electors of Such Precinct.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ADDITIONAL JUSTICES, WHEN. PETITION FOR.] Whenever ten or more qualified electors of any election precinct in this state, comprising one or more unorganized townships, shall file a petition with the county auditor of the county in which they reside, setting forth that there are not enough justices of the peace or constables in such precinct for the proper administration of justice, there shall thereafter be elected at the general election in each even numbered year two justices of the peace and two constables, whose jurisdiction shall be the same as county justices and constables. On the filing of said petition such offices shall be deemed vacant and shall be filled by appointment of the board of county commissioners at their next regular meeting or at a special meeting called for that pur-

pose. The officers so appointed shall hold office until their successors are elected and qualified, or until the township or townships comprising said election precinct shall become organized.

§ 2. EMERGENCY.] Whereas, an emergency exists, there being many counties in the state in which there are not enough justices of the peace and constables for the proper administration of justice, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1909.

CHAPTER 82.

[H. B. No. 370—Doyle, of Foster]

NON-PARTISAN JUDICIARY.

AN ACT to Provide for the Nomination and Election of Judges of the Supreme and District Courts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NO PARTY BALLOT.] In all petitions and affidavits to be filed by or in behalf of candidates for nomination at the primary election to the office of judge of the supreme or district court, no reference shall be made to a party ballot or to the party affiliation of such candidate.

§ 2. SEPARATE BALLOT FOR JUDICIAL NOMINATIONS.] All primary elections at which candidates for judge of the supreme or district court are to be nominated, there shall be separate ballots, upon which shall be placed the names of the candidate for such offices, which ballot shall be entitled the "judiciary ballot," and the names of such candidates shall be placed thereon without party designation, and there shall be designated thereon the number of judges each elector is entitled to vote for. This ballot shall be delivered to each elector by the proper election officer, and the candidate on such "judiciary ballot" receiving the highest number of votes to the extent of double the number of those to be elected, provided there are that many or more candidates running for such office or offices, shall be duly nominated.

§ 3. BALLOT AT GENERAL ELECTIONS.] At the general election there shall be a separate ballot, upon which shall be placed the names of the candidates for judge of the supreme court and judge of the district court, who have been nominated as herein provided, which ballot shall be entitled the "judiciary ballot," and the names of all candidates shall be placed thereon without party designation, and there shall be designated thereon the number of judges each elector is entitled to vote for. This ballot shall be delivered to each elector,

number of votes to the number of those to be elected, shall be duly elected.

and the candidates on such "judiciary ballot" receiving the highest

§ 4. REPEAL.] All acts and parts of acts in so far as they conflict herewith are hereby repealed.

Approved March 6, 1909.

CHAPTER 83.

[S. B. No. 296—Bessesen]

REPORTS OF SUPREME COURT.

AN ACT to Amend Section 460 of the Revised Codes of North Dakota for 1905, Relating to the Supreme Court Reports, How Printed, and Number.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 460 of the revised codes of North Dakota for the year 1905 is hereby amended to read as follows:

§ 460. REPORTS, HOW PRINTED. NUMBER.] After sufficient opinions are announced and recorded to make a volume, the reporter shall forthwith deliver to the person, persons or corporation having the contract with the state for publishing the same, copies of such opinions, and with each opinion a syllabus, and a brief statement of the facts involved, together with other matters as contemplated in section 457. Within twenty days after the proofsheets for a volume have been furnished to him by the publishers at his office, he shall furnish to such publishers an index and table of cases to such volume. The publishers shall furnish to the reporter without delay, as soon as they shall be issued seven copies of the revised proofsheets of the opinions, head notes, index and table of cases of each volume, for correction and approval by the reporter and judges of the supreme court, and shall cause such corrections to be made therein as shall be indicated by the reporter or said judges. Each of said volumes shall contain not less than six hundred and fifty pages, exclusive of the table of cases and index, and the workmanship and quality of material shall be approved and accepted by a majority of the judges of the supreme court. The secretary of state shall, in the first week in April and every eight years thereafter, advertise weekly, in six different newspapers in different localities in this state, for the term of six weeks, that sealed proposals will be received at the office of the secretary of state, for printing, publishing and selling the said reports for the term of eight years next after the first day of June of said year, at a certain rate per volume, to be stated in said proposal, not exceeding

two dollars and twenty-five cents per volume. Each bidder shall deposit with the state treasurer the sum of one thousand dollars either in cash or by certified check, before making his proposal, to be forfeited to the state in case he shall not make a contract according to his proposal, if accepted, and according to the requirements of this chapter, and shall take a receipt from said treasurer and deposit the same with his proposal, and, upon entering into the contract herein provided, or upon the proposal being rejected, the said sum shall be returned. The successful bidder shall enter into a contract that he will publish the supreme court reports of the state, of the quality, style and character in all respects as required in this chapter.

First: Each volume shall contain at least six hundred and fifty pages of four and one-half inches in width and equal in style and quality to the best of those heretofore published.

Second: Three hundred and twenty-five copies shall be published and delivered to the secretary of state within sixty days after the complete manuscript thereof shall be delivered by the reporter of said court to said contracting party; provided, however, that such time that said reporter shall retain the proof of any one volume after the same shall have been submitted to him for revision shall not be computed as a part of said sixty days.

Third: That at the time said party to whom said contract shall be awarded shall deliver said copies of said report to said secretary of state, said party shall deliver to said secretary of state, free of charge, a true and correct paper matrix of said report, to be preserved by said secretary of state as part of the records of his office.

Fourth: That the party to whom said contract shall be awarded shall agree to publish and sell the same to the citizens of North Dakota, and at all times keep the same on sale at the price agreed upon in said contract, and shall agree to stereotype the same and at all times keep the same on sale at the contract price, and furnish the state any number of additional copies that may be thereafter required at said contract price, the copyright of all reports published under said contract vesting in the secretary of state for the benefit of the people of this state; provided, however, that nothing herein contained shall be so construed as to prevent the contractors by whom any such volume is published, their representatives or assigns, from continuing the publication and sale of such volumes, so long as they shall comply in all respects with the requirements of this act in respect to the character, sale and price of such volume.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 15, 1909.

CRIME

CHAPTER 84.

[S. B. No. 283—Purcell]

RAPE.

AN ACT to Amend Sections 8893, 8894, 8895 and 8896 of the Revised Codes of North Dakota Defining Rape and Prescribing Punishment Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8893 of the revised codes for 1905 is amended so as to read as follows:

§ 8893. RAPE IN THE FIRST DEGREE DEFINED.] Rape committed upon a female under the age of sixteen years, or incapable through lunacy or through unsoundness of mind of giving legal consent, or accomplished by means of force, overcoming her resistance, is rape in the first degree.

§ 2. AMENDMENT.] Section 8894 of the revised codes for 1905 is amended so as to read as follows:

§ 8894. RAPE IN THE SECOND DEGREE DEFINED.] In all other cases rape is of the second degree, but no conviction can be had in case the female is over the age of sixteen years and the male is under the age of twenty years at the time of the act of intercourse, and it appears to the satisfaction of the jury that the female was sufficiently matured and informed to understand the nature of the act, and consented thereto.

§ 3. AMENDMENT.] Section 8895 of the revised codes for 1905 is amended so as to read as follows:

§ 8895. PUNISHMENT FOR THE FIRST DEGREE.] Rape in the first degree is punishable by imprisonment in the penitentiary not less than five years.

§ 4. AMENDMENT.] Section 8896 of the revised codes for 1905 is amended so as to read as follows:

§ 8896. PUNISHMENT FOR SECOND DEGREE.] Rape in the second degree is punishable by imprisonment in the penitentiary not less than one year and not more than fifteen years.

Approved March 17, 1909.

CHAPTER 85.

[H. B. No. 231—Kneeland]

BASTARDY.

AN ACT to Amend Section 9650 of the Revised Codes of 1905, Relating to Bastardy Proceedings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9650 of the revised codes of 1905 of the state of North Dakota, is hereby amended to read as follows:

§ 9650. EXAMINATION. UNDERTAKING. COMMITMENT.] Upon the arrest of the defendant, unless he complies with the provisions of section 9649, or gives an undertaking as provided in section 9648, the defendant shall be taken before a magistrate as directed in the warrant of arrest, where he shall be entitled to a preliminary examination upon the charge made in the complaint. The provisions of article 10, chapter 6, of the code of criminal procedure, shall apply to such preliminary examination, except as otherwise provided in this chapter. If from such examination it appears to the magistrate that the complainant is an unmarried woman and has been delivered of a bastard child, or is pregnant with a child which if born alive may be a bastard, and that there is sufficient cause to believe that such child was begotten by the defendant, the magistrate shall require him to execute and give an undertaking in a sum not less than five hundred dollars and not exceeding one thousand dollars, with sufficient sureties, payable to the state of North Dakota, and conditioned that he will appear at the next term of the district court of such county and from term to term until the final disposition of the proceeding to answer the complaint and abide the judgment and orders of the court therein. If the defendant fails to execute and give such undertaking the magistrate shall make an order committing him as in criminal actions.

Approved March 11, 1909.

CHAPTER 86.

[S. B. No. 324—Koffel]

PROSTITUTION.

AN ACT Making It Unlawful For Any Person to Receive the Proceeds or Earnings of Any Woman Engaged in Prostitution.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO RECEIVE PROCEEDS.] Any person who shall knowingly accept or receive in whole or in part support or main-

tence or revenue from the proceeds or earnings of any woman engaged in prostitution shall be deemed guilty of a felony and upon conviction thereof shall be confined in the penitentiary not less than one nor more than five years, or be fined not exceeding one thousand dollars, or both, in the discretion of the court.

Approved March 16, 1909.

CHAPTER 87.

[S. B. No. 329—Bessesen]

PROSTITUTE.

AN ACT Defining a Prostitute and Prescribing the Punishment Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PROSTITUTE DEFINED. PUNISHMENT.] Any female who frequents or lives in houses of ill-fame, or who commits fornication for hire, shall be deemed a prostitute, and shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed thirty days, or by a fine not to exceed one hundred dollars, or by both such fine and imprisonment.

Approved March 16, 1909.

CHAPTER 88.

[S. B. No. 327—Bessesen]

HOUSE OF PROSTITUTION.

AN ACT to Amend Section 8899 of the Revised Codes of North Dakota of 1905, Defining the Offense of Inveigling Into House of Prostitution, and Prescribing the Punishment Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8899 of the revised codes of North Dakota of 1905 is hereby amended to read as follows:

§ 8899. INVEIGLING INTO HOUSE OF PROSTITUTION. PUNISHMENT.] Every person who inveigles or entices any unmarried female of previously chaste character, into any house of ill fame or of assignation or elsewhere, for the purpose of prostitution, and every person who aids or assists in such abduction for such purpose, is punishable by imprisonment in the penitentiary for not less than one and not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Approved March 15, 1909.

CHAPTER 89.

[S. B. No. 332—Bessesen]

DETENTION IN HOUSE OF ILL FAME.

AN ACT Defining the Crime of Detention of a Woman in a House of Ill-Fame Against Her Will, and Prescribing the Punishment Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DETENTION OF WOMAN IN HOUSE OF ILL-FAME AGAINST HER WILL. PUNISHMENT.] Any person who shall detain any woman against her will by force, threats, putting in bodily fear, or by any other means, at a house of ill-fame, or any other place of any other name or description, for the purpose of prostitution, or for unlawful sexual intercourse, or who shall aid, abet, advise, encourage or assist in such detention, shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state penitentiary for a period not to exceed three years, or by imprisonment in the county jail not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

Approved March 16, 1909.

CHAPTER 90.

[S. B. No. 179—Gunderson]

ARREST AT NIGHT.

AN ACT Repealing Section 9733 of the Revised Codes for the Year 1905, Relating to Arrests at Night, and Re-enacting Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9733 of the revised codes of North Dakota for the year 1905 is hereby amended to read as follows:

§ 9733. ARREST AT NIGHT, REASONABLE CAUSE.] He may also at night without a warrant arrest any person for a public offense, committed or attempted in his presence, and may also at night without a warrant arrest any person whom he has reasonable cause for believing to have committed a felony, and is justified in making the arrest, though it afterwards appear that the felony had not been committed.

Approved March 13, 1909.

CHAPTER 91.

[S. B. No. 168—Crane]

BURGLAR'S IMPLEMENTS.

AN ACT to Amend Section 9151 of the Revised Codes of North Dakota, of 1905, Relating to Having Burglar's Implements in Possession.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9151 of the revised codes of North Dakota, 1905, be and the same is hereby amended and re-enacted to read as follows:

§ 9151. HAVING BURGLAR'S IMPLEMENTS IN POSSESSION.] Every person who, under circumstances not amounting to any felony, has in his possession any dangerous offensive weapon or instrument whatever, or any picklock, crow, key, bit, jack, jimmy, nippers, pick, betty or other implement of burglary, with intent to break and enter any building, booth, tent, railroad car, vessel or other structure or erection, and to commit any felony therein, is guilty of a misdemeanor.

Approved March 13, 1909.

DAIRY PRODUCTS

CHAPTER 92.

[H. B. No. 307—Duncan]

DAIRY DEPARTMENT OF DEPARTMENT OF AGRICULTURE AND LABOR.

AN ACT to Create a Bureau of the Department of Agriculture and Labor to be Known as the Dairy Department; to Provide for the Appointment of a Dairy Commissioner and an Assistant Dairy Commissioner; Fixing Their Compensation; Defining Their Powers and Duties; Prescribing Rules for the Regulation of the Manufacture and Sale of Dairy Products; Prescribing Penalties for Violations; Providing for a License for Creameries, Manufacturers of Butter and Cheese, Stations and Cream Buyers Throughout the State, and Making an Appropriation for the Purposes of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DAIRY DEPARTMENT CREATED.] There is hereby created a bureau of the department of agriculture and labor to be known

as the dairy department, which is hereby created for the purpose of promoting, improving and regulating the dairy products of the state and to establish and enforce proper rules and regulations pertaining thereto.

§ 2. DEPUTY COMMISSIONERS.] The commissioner of agriculture and labor is hereby authorized and directed to appoint a deputy in his department, who shall be known as the dairy commissioner and shall be the official head of the dairy department. He shall have a practical knowledge and experience in the manufacture of dairy products. There shall also be appointed by the commissioner of agriculture and labor, one assistant dairy commissioner, who shall possess the same qualifications as the dairy commissioner. Said dairy commissioner and assistant dairy commissioner shall hold their office during the term of the commissioner of agriculture and labor, who shall appoint them subject to removal for inefficiency, neglect or violation of duty.

§ 3. COMPENSATION.] The dairy commissioner shall receive the same salary as is paid to the assistant or chief deputy in other departments of the state government; and the assistant dairy commissioner shall be paid a salary of fifteen hundred dollars per annum, such salaries to be paid on vouchers approved by the commissioner of agriculture and labor in the same manner as the salaries of the employes of other departments of the state government are paid.

§ 4. EXPENSES OF COMMISSIONERS PAID.] In addition to the compensation in this act provided the said dairy commissioner and assistant dairy commissioner shall be paid all their actual and necessary expenses incurred in the performance of their duties to be paid as the expenses of other departments are paid.

§ 5. DUTIES.] It shall be the duty of said dairy commissioner to carry into effect the provisions of this act and all other acts which may be in force or be hereafter enacted relating to dairies and dairy products and he is hereby authorized and empowered to promulgate and enforce such rules and regulations as may be deemed proper and necessary to carry into effect the provisions of this act; and to amend, alter or abolish such regulations from time to time as changed conditions or experience shall show to be to the best interest of the dairying interests of the state, and relating to the production, manufacture and sale of dairy products, their imitations and substitutes. He shall inspect or have inspected every creamery and cream station, cheese factory and renovating or "process butter" factory in the state at least once a year; to assist the buttermakers, cheese makers and managers of such factories and stations and the patrons of the same, in order to improve the quality of the dairy products sold to or manufactured in said factories and to co-operate with and instruct the dairymen in testing their dairy herds both individually and collectively.

§ 6. PUBLISH BULLETINS.] The said dairy commissioner under the supervision of the commissioner of agriculture and labor is hereby authorized, and it is made his duty from time to time as deemed necessary to publish and distribute bulletins containing the rules and regulations of the dairy commissioner and such other useful information as he shall deem to the advantage of the dairy interests of the state. The expenses for such publications shall be audited and paid for as other public printing.

§ 7. ADDITIONAL POWERS AND DUTIES.] In addition to the powers and duties in this act enumerated, the said dairy commissioner and such persons as shall be duly authorized for the purpose, shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans used in the sale of any dairy product, or any imitation thereof. They shall also have power and authority to open any package, can or vessel containing such article which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein, and may take samples therefrom for analysis. They shall also have authority to prevent the sale or manufacture into any food product cream that is filthy or putrid, or milk that has been drawn from cows diseased or fed on unwholesome food, and to prohibit the shipment of the same from any railway station within the state. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them every assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act. The dairy commissioners and such persons as shall be duly authorized for the purpose, shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy premises or creamery where any dairy products are bought, manufactured, handled or stored when the milk or cream from such cow or product is to be sold or shipped at or to any cream station, creamery, cheese factory, ice cream factory or other factory and may enforce such measures as are necessary to secure perfect cleanliness in and around the same, and of any utensils used therein.

§ 8. PENALTY FOR OBSTRUCTING COMMISSIONER.] Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be subject on conviction to a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, and it shall not be necessary to have the indorsement of the state's attorney to a complaint made for violation of the provisions of this act, but when the justice of the peace or other court before whom complaint is made, shall be satisfied of the truthfulness of such complaint, he shall issue a warrant thereon.

§ 9. CREAM STATION DEFINED.] For the purpose of this act a "cream station" shall be any place where an individual, firm or cor-

poration receives milk or cream from more than one herd that is weighed, tested or purchased when such milk or cream is to be manufactured into butter, cheese or ice cream by some other individual, firm or corporation, or in some separate building or locality than that in which such milk or cream is weighed, tested or purchased; provided, however, that it is not intended by this act to include weighing on public scales by producers before shipment by themselves.

§ 10. LICENSE.] Every person, firm or corporation owning and operating a creamery, cheese factory or renovating or "process butter" factory or cream station in the state shall on the first day of July of each year, or within thirty days thereafter, be licensed by the dairy commissioner, and shall pay for such license the sum of ten dollars for each and every factory owned or operated by said person, firm or corporation, or cream station, in which cream is to be gathered to be shipped outside the state. No license shall be sold or transferred. Each license shall record the name of the owner, firm or corporation, place of business, the location of the factory, or cream station, and the number of the same.

§ 11. AUTHORITY REQUIRED TO DO BUSINESS.] No corporation or association shall do or transact any business in this state pertaining to the dairy interests of the state as described in this act without having first been authorized so to do under the laws of this state, and no foreign corporation shall purchase any cream in this state for shipment out of the state except through authorized agents at established and licensed cream stations, and subject to such rules and regulations as shall be prescribed by the dairy commissioner for the regulation and conduct of cream stations. No person shall act as the agent or purchaser of cream for any foreign corporation who is not a resident of this state and licensed so to do, and any person acting as such agent who fails to comply with the provisions of this act and the rules and regulations established thereunder shall on conviction be punished as for a misdemeanor.

§ 12. ANNUAL REPORT OF CREAM STATION. PRICE DISCRIMINATION FORBIDDEN.] The agent or person in charge of any cream station at which cream is purchased for shipment out of the state shall on July first of each year or within thirty days thereafter report to the dairy commissioner: The name, location and business of his employer; amount of capital stock invested in business; property or assets; liabilities, and such other information pertaining to the business and conduct of the cream station of which such agent has charge, as shall be requested in writing by the dairy commissioner. It is hereby declared to be unlawful for any person, firm, corporation or agent to discriminate in the price paid for cream at any cream station in the state by paying a higher price for cream purchased at any station above the price paid at any other station in the state, conditions of cream and rates of transportation being equalized; the questions of conditions of cream, and difference in

rates of transportation from different points of shipment to be established the same as any question of fact in a civil action. Any person, firm, corporation or agent found guilty of a violation of the provisions of this section shall be deemed guilty of a misdemeanor and punished accordingly.

§ 13. REPORT OF COMMISSIONER.] The dairy commissioner shall make report to the commissioner of agriculture and labor, as directed by such commissioner, and the annual reports of the commissioner of agriculture and labor shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of said assistant dairy commissioners, in regard to the production, manufacture and sale of dairy products, and such suggestions as he may regard of public importance connected therewith.

§ 14. AUTHORITY OF ASSISTANT.] The assistant dairy commissioner shall perform such duties as may be directed by the dairy commissioner or the commissioner of agriculture and labor; and when acting as such the assistant dairy commissioner shall be invested with the same authority as is by this act conferred on the dairy commissioner.

§ 15. STENCIL OR BRAND REQUIRED. REPORT TO COMMISSIONER.] Every creamery, cheese factory, combined creamery and cheese factory or renovating or "process butter" factory shall procure a stencil or brand, bearing a suitable device and words which shall clearly designate the quality of the product manufactured and the number and location of the factory, and it may contain a special or private brand or name of said factory; every brand shall be used on the outside of the cheese and also upon the package containing the same, but in the case of butter on the package only; and shall on the first day of July, or within thirty days thereafter, of each year, report to the dairy commissioner the name, location and number of each factory using the same brand, and the name or names of the persons at each factory authorized to use the same, together with a copy of each stencil or brand, and the dairy commissioner shall keep a book in which shall be registered the same.

§ 16. BLANKS FOR REPORT.] The said dairy commissioner shall provide blanks which shall be furnished to all proprietors or managers of creameries, cheese factories and renovating or "process butter" factories and cream stations, which shall be licensed under the provisions of this act, for the purpose of making a report of the amount of milk and dairy goods handled, and all owners or managers of such creameries, cheese factories and renovating or "process butter" factories, and cream stations shall send to the dairy commissioner, not later than the last day of each month, a full and accurate report of the amount of business done during the preceding month as designated under the different headings of such printed blanks.

§ 17. PENALTY FOR SELLING IMPURE, ADULTERATED OR SKIMMED MILK.] If any person shall sell, or expose for sale or exchange or deliver or bring to another for domestic or potable use, to be converted into any product of human food, any unclean, impure, unhealthy, adulterated, unwholesome or skimmed milk (except pure skim milk to skim cheese factories), or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscess or running sores, or which has been taken from animals within fifteen days before or five days after parturition; or if any person shall purchase to be converted into any product of human food, any unclean, unhealthy, adulterated or unwholesome milk or cream, or shall manufacture any such milk or cream into any product of human food; or if any person, having cows for the purpose of producing milk and cream for sale, shall stable them in an unhealthy place, or in a crowded manner, or shall knowingly feed them food which produces impure, unwholesome milk, or shall feed them on any substance in a state of putrefaction or rottenness, or of an unhealthy nature, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

§ 18. ADULTERATION DEFINED.] For the purpose of this act, the addition of water or any so-called preservative or anything to whole milk or skimmed milk or partially skimmed milk or cream, is hereby declared an adulteration; and milk or cream which is obtained from animals fed on any substance of an unhealthy nature, is hereby declared impure and unwholesome; and milk which has been proved by any reliable method of test or analysis to contain less than twelve per cent of milk solids to the hundred pounds of milk, or less than three pounds of butter fat to the hundred pounds of milk, shall be regarded as skimmed or partially skimmed milk, and every article not containing fifteen per cent or more of butter fat shall not be regarded as cream.

§ 19. STANDARD MILK AND CREAM MEASURES AND TESTS.] The state standard milk measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test tubes or bottles for milk shall have a capacity for two cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale on the neck thereof. Cream shall be tested by weight, and the standard unit for testing shall be eighteen grams, and the standard test tubes or bottles shall have a capacity for ten cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit, between "zero" and fifty on the graduated scale on the neck thereof, and it is hereby made a misdemeanor to use any other means of determining the amount of butter fat in milk or cream than the Babcock test, or to use any other size of milk measure, weight, test tubes or bottles, except those described herein, where milk or cream is purchased or furnished to cheese

factories, and the value of said milk or cream is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a milk pipette, or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

§ 20. FALSE READING UNLAWFUL.] It shall be unlawful for the owner, manager, agent or employe of any creamery or cheese factory to manipulate, under-read or over-read the Babcock test, or any other contrivance used for determining the quality or value of milk.

§ 21. SALE OF ADULTERATED PRODUCTS PROHIBITED. OLEOMARGARINE EXCEPTED.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale for the future delivery of, have in his possession, keep in storage, distribute, deliver, transfer or convey with intent to sell within this state any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be an imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such a manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like butter.

§ 22. OLEOMARGARINE, BUTTERINE, ETC., HOW MARKED.] No person by himself or his agents or servants shall sell or expose for sale oleomargarine, butterine or any substance made in imitation or semblance of pure butter, in tubs, firkins or other original packages not distinctly, legibly and durably branded or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "imitation butter" as the case may be, in letters not less than one inch in length and one-half inch in width, or in retail packages not plainly and conspicuously labeled with said words, "oleomargarine" or "butterine" or "imitation butter", as the case may be.

§ 23. RENOVATED BUTTER, HOW MARKED.] No person by himself, or his agents or servants, shall manufacture, sell, offer for sale or expose for sale butter that is produced by taking original packing stock or other butter, or both, and melting the same so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream, or other milk product, and rechurning the said mixture; or that is produced by any similar process, and is commonly known as boiled or process butter, unless the tub, firkin or other original package in which the same may be put up, be distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the words "renovated butter," in printed letters not less than one inch

in length and one-half inch in width; or be in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with said words "renovated butter," in printed letters not less than one-half inch in length and one-quarter inch in width.

§ 24. SKIMMED MILK CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale any cheese manufactured from skim milk, or from milk that is partially skimmed, without the same being plainly branded, stamped or marked on the side or top of both cheese and package in a durable manner, in the English language, the words "skimmed milk cheese," the letters of the words to be not less than one inch in height and one-half inch in width.

§ 25. FILLED CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale or make, manufacture out of any oleaginous substance or substances or any compound of the same or any other compound than that produced from unadulterated milk, any article to take the place of cheese produced from pure milk, or any article termed "filled cheese," shall stamp each package of the same on the top and side with lampblack and oil the words "filled cheese," or words that shall designate the exact character and quality of the product, in printed letters at least one inch long and one-half inch wide.

§ 26. CITY COUNCIL PROVIDE FOR INSPECTION OF MILK AND DAIRY HERDS.] The council of any city or incorporated town may by ordinance provide for the inspection of milk and of dairies and dairy herds kept for the production of milk within its limits, and issue licenses for the sale of milk within its limits, and regulate the same, and may authorize and empower the board of health to enforce all laws and ordinances relating to the production and sale of milk and the inspection of dairies and dairy herds producing milk for sale within such city.

§ 27. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.] Whoever violates any of the provisions of this act, the punishment of which is not herein otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment of not less than ten days nor more than ninety days, or both.

§ 28. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of two thousand five hundred dollars, and in addition thereto such sum or sums as shall be collected for licenses under the provisions of this act, for the purpose of carrying into effect the provisions of this act.

§ 29. REPEAL.] All acts or parts of acts in conflict with the provisions of this act and particularly chapter 90 of the laws of 1907 are hereby repealed on the taking effect of this act.

Approved March 20, 1909.

ELECTIONS

CHAPTER 93.

[H. B. No. 70—Johnson, of Bottineau]

COMPENSATION OF ELECTION OFFICERS.

AN ACT Amending Section 687 of the Revised Codes of 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 687 of the revised codes of 1905 is amended to read as follows:

§ 687. COMPENSATION OF ELECTION OFFICERS.] There shall be allowed to the several inspectors, judges and clerks of election of each county the sum of twenty-five cents for each hour they serve as such election officers, to be paid out of the county treasury on the warrant of the county auditor; provided, however, that in no case shall an inspector, judge or clerk of election be paid for such services a sum exceeding four dollars.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 16, 1909.

CHAPTER 94.

[S. B. No. 125—Wallin]

REGULATING VOTING.

AN ACT to Amend Section 645 of Chapter 8 of the Revised Codes of 1905, Relating to Election Booths, Challenges and Providing Penalty for False Swearing.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 645, chapter 8, of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 645. ELECTION BOOTHS. FALSE SWEARING. PENALTY.] The inspectors of election shall provide in their respective polling places a sufficient number of booths or compartments which shall be furnished with such supplies and conveniences as to enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation and a guard

rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot boxes or booths or compartments herein provided for; provided, that the number of booths or compartments shall not be less than one for each fifty electors or fraction thereof, in the precinct. No election shall be held in a room in which spirituous or malt liquors are commonly sold. Not more than one elector for each booth shall be permitted within the railing at any one time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing at the outside. If any person offering to vote shall be challenged by one of such challengers or by any member of the board of election, such person shall, unless such challenge is withdrawn, stand aside and shall not vote unless he makes an affidavit that he is a legally qualified elector of the precinct, and any one who falsely swears in order to cast his vote shall be guilty of perjury, and upon conviction thereof shall be punished as prescribed in section 8702, chapter 12, penal code of the revised codes of 1905. The expense of providing such booths or compartments and guard rails shall be a public charge and shall be provided for in the same manner as other election expenses.

Approved March 11, 1909.

CHAPTER 95.

[H. B. No. 236—Storey]

TIE VOTE FOR MEMBER OF LEGISLATURE.

AN ACT to Amend Section 651 of the Revised Codes of the State of North Dakota for 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 651. ABSTRACT OF VOTES. CERTIFICATES OF ELECTION. TIE, HOW DECIDED. PUBLICATION OF RETURNS.] On the fifteenth day after the close of any election, or as soon as the returns are received, the county auditor shall call to his assistance a majority of the county commissioners of the county or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be a candidate for office, unless there is not sufficient of such officers who are not candidates, and shall proceed to open such returns and make abstracts of votes in the manner following from the certified statements prepared by the different inspectors of election in the various precincts. The abstract of votes for member of congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent

of public instruction and lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; provided, that when a tie shall exist between two or more persons for the senate or house of representatives, if such district is within the boundary of one county, the auditor of such county and if such district is within the boundaries of more than one county, then the county auditor of the county casting the greater number of votes for the office of governor, shall immediately by registered letter addressed to the respective candidates at their post-office address, give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, which shall not be more than twenty days after the tie shall have been declared by such county auditor and they shall then proceed publicly to decide by lot which of the persons so having the highest and equal number of votes shall be declared duly elected and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. It shall be the duty of the county auditor of each county, on receipt of the returns of any election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. Immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in the official newspapers of the county, in tabular form, the vote by precincts for each officer and proposition voted for at said election; such publication to be paid for at a rate not exceeding the rate paid for publishing county commissioners' proceedings. If the county auditor is a candidate for office, he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass, shall call to their assistance a justice of the peace, and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

Approved March 11, 1909.

EDUCATION

CHAPTER 96.

[S. B. No. 303—Talcott]

TEACHERS' STATE CERTIFICATES.

AN ACT to Amend Section 871 of the Revised Codes of the State of North Dakota of 1905 Relating to Education.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 871, of chapter 9, of the revised codes of 1905, state of North Dakota, is amended and re-enacted to read as follows:

§ 871. STATE CERTIFICATES, FIRST AND SECOND CLASS. SPECIAL, WHO ENTITLED.]

1. He may issue a state certificate to be valid for the term of five years unless sooner revoked, to be known as a state certificate of the first class. Such certificate shall be issued only to persons of good moral character who have completed the prescribed curriculum of study in the teachers' college of the state university, or in one of the normal schools of the state, or in a normal school elsewhere, having a reputation for thoroughness, or to those persons who have degrees in liberal arts, granted by any college or university of recognized standing, but the superintendent of public instruction may examine any such applicant in his discretion. Such certificate shall not be granted unless the applicant shall have taught school successfully for at least eighteen months after graduation.

2. He may issue a state certificate, to be valid for a term of three years, unless sooner revoked, to be known as a state certificate of the second class. Such certificate shall be issued only to persons of good moral character who have completed the prescribed curriculum of study in any reputable normal school, or who have received degrees in liberal arts from a college or university of good standing in this state, and have made at least one year's study in pedagogics, such as shall be prescribed by the superintendent of public instruction, but the superintendent of public instruction may examine any such applicant in his discretion.

3. Any person who is a graduate of the teachers' college of the university of North Dakota, or of one of the normal schools of North Dakota, and who has had nine months' successful experience as a teacher after graduation, may be granted a state certificate of

the first class; provided, that a diploma from the teachers' college of the university of North Dakota or of either of the normal schools of this state shall be the equivalent of a state certificate of the second class, if the party holding such diploma have the required age specified in section 875.

4. He may issue special certificates authorizing the holders thereof to teach music, drawing, kindergarten, primary subjects, manual and industrial training, domestic science, nature study or elementary agriculture, which certificates shall be valid throughout the state, each for a term of three years, under such regulations as the superintendent of public instruction may prescribe; provided, that graduates from the state normal and industrial school shall be entitled to certificates authorizing them to teach manual and industrial training without further examination.

Approved March 15, 1909.

CHAPTER 97.

[S. B. No. 252—Johnson]

STATE TUITION FUND.

AN ACT to Amend Section 6 of Chapter 95 of the Session Laws of 1907, Being Section 847 of the Revised Codes of North Dakota for 1905, Relating to the Tuition Fund and Enumeration.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section six of the session laws of 1905, being section 847 of the revised codes of North Dakota for 1905, be and the same is hereby amended to read as follows:

§ 847. NOT ENTITLED TO TUITION FUND, WHEN. ENUMERATION.] No school district shall be entitled to receive any portion of the state tuition fund that fails to make a report of the enumeration of the children of school age in the manner provided by law, nor until such enumeration has been taken and reported as required by law. The county superintendent of schools shall not authorize the payment of money apportioned to any district unless the bond and oath of such treasurer has been duly approved and filed, as provided for by section 817; provided, also, that the county superintendent is empowered to withhold the payment of state and county tuition from any district whose clerk and treasurer have failed to make the reports provided for in section 835. New districts organized after the annual enumeration has been taken shall proceed immediately to take the enumeration as provided by law, and after the receipt of such enumeration by the superintendent of public instruction through the county superintendent, the newly organized district shall receive its proportionate share of the funds to be apportioned;

provided, further, that the county superintendent shall have the right to withhold the apportionment of the county and state tuition fund from any school district other than the new districts herein provided for, which has not maintained school therein for a period of not less than six school months in each school of said district in the school year preceding such apportionment or has not otherwise provided school facilities for the pupils of that district; provided, further, that it shall be mandatory upon the county superintendent to withhold the apportionment of state and county tuition funds from any district which has not maintained school for a period of at least four months in each school in said district or otherwise provided school facilities for the pupils of that district for the school year preceding such apportionment; and when such apportionment of state and county tuition funds shall be withheld by the county superintendent from any district, they shall revert to the funds from which they were originally apportioned.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are no provisions for the return of these funds, therefore this act shall take effect immediately after its passage and approval.

Approved March 15, 1909.

CHAPTER 98.

[S. B. No. 235—Senate Committee on Education]

ENCOURAGEMENT OF PROFESSIONAL SPIRIT AMONG TEACHERS.

AN ACT to Encourage Professional Spirit Among Teachers in This State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SUPERINTENDENTS, PRINCIPALS, TEACHERS ATTENDING THE NORTH DAKOTA EDUCATIONAL ASSOCIATION.] The board of education in special or independent districts, or the school district board in any common school district is hereby authorized to allow the superintendent, principal or teachers of the schools under its charge to attend any meeting of the North Dakota educational association which may be held while the schools of such districts are in session without loss of salary.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 15, 1909.

CHAPTER 99.

[S. B. No. 232—Senate Committee on Education]

COMPULSORY ATTENDANCE.

AN ACT to Amend Sections 894 and 896 of the Revised Codes of 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 894 of the revised codes of 1905 is amended to read as follows:

§ 894. SCHOOL AGE, WHO EXEMPT FROM COMPULSORY ATTENDANCE.] Every parent, guardian or other person who resides in any school district or city, who has control over any child or children of or between the ages of eight and fourteen shall send each child or children to a public school in each year during the entire time the public schools of such district or city are in session, and every parent, guardian, or other person having control of any deaf or feeble-minded child or youth between the ages of seven and twenty-one years of age shall be required to send each deaf child to the school for the deaf at the city of Devils Lake, and any feeble-minded child to the institution for the feeble-minded at Grafton; provided, that such parent, guardian, or other person having such control of any child shall be excused from such duty by the school board of the district or by the board of education of the city or village whenever it shall be shown to their satisfaction, subject to appeal as provided by law, that one of the following reasons therefor exists:

1. That such child is taught for the same length of time in a parochial or private school, approved by such board; that no school shall be approved by such board unless the branches usually taught in the public schools are taught in such schools.

2. That such child is actually necessary to the support of the family.

3. That such child has already acquired the branches of learning taught in the public schools.

4 That such child is in such a physical or mental condition (as declared by the county physician, if required by the board) as to render such attendance inexpedient or impracticable. If no school is taught the requisite length of time within three miles of the residence of such child by the nearest route, such attendance shall not be enforced, except in cases of consolidated schools where transportation may be arranged by the school board; provided, that in districts where children live beyond the three mile limit and school facilities are not otherwise provided, the district board shall provide transportation for such children to and from school, paying therefor a

sum not exceeding ten cents per mile one way per day for one or two pupils, and five cents each per mile one way per day for more than two pupils for each day's attendance at school. In districts having consolidated schools where transportation is arranged for by the school board, or in other districts providing transportation, attendance shall be required of pupils residing within four miles of such school or schools, but this provision shall not apply to deaf or feeble-minded children in this state. The common schools provided for in this chapter shall be at all times equally free, open and accessible to all children over six and under twenty years of age, residents of the school districts where they are held or entitled to attend school, under any special provisions of this chapter, subject to the regulations herein made, and to such regulations as the several school boards and boards of education may prescribe, equitably and justly, and not in conflict with the provisions of law; provided, further, that this section shall not be construed to apply to parents, guardians or other persons having control of any child or children between the ages of eight and fourteen who desire to send such child or children for a total period not exceeding six months to any parochial school for the purpose of preparing such child or children for certain religious duties.

§ 2. AMENDMENT.] Section 896 of the revised codes of North Dakota, amended by the legislature of 1907, is amended to read as follows:

§ 896. PROSECUTION FOR NEGLECTING THIS DUTY.] It shall be the duty of the superintendent or principals of schools in any city, town or village, or the teacher of any district school to inquire into all cases of negligence of the duty prescribed in this article and to ascertain from the person neglecting to perform such duty the reason therefor, if any, and in common school districts notify the county superintendent of schools of such neglect; and said county superintendent, upon proper presentation of facts, shall lay the complaint before the state's attorney whose duty it will be to proceed forthwith to secure the prosecution for any offense occurring under this article. In special or independent districts the superintendent or principal of schools shall lay the complaint before the state's attorney who shall proceed as above; provided, further, that the board of education or district school board in any city or school district of over five hundred inhabitants may employ a truant officer who shall perform the duties implied in this section.

Approved March 15, 1909.

CHAPTER 100.

[H. B. No. 340—McCrea]

COURSE OF STUDY FOR RURAL SCHOOLS.

AN ACT to Authorize the Superintendent of Public Instruction and Presidents of the State Normal Schools to Arrange a Course of Study for the State Normal Schools, to Provide for the Rural Schools of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COURSE OF STUDY AUTHORIZED.] For the purpose of encouraging education in the rural communities of North Dakota and promoting a knowledge of rural environment and life, the presidents of the state normal schools with the superintendent of public instruction are authorized and empowered to provide and arrange a course of study for the state normal schools of not less than ten and one-half months extent, for students who have completed the eighth grade in the common and rural schools of the state or the eighth grade in the cities, towns and villages, and for such persons as may have previously been granted a certificate to teach in this state.

§ 2. NORMAL SCHOOLS GRANT CERTIFICATES.] The said normal schools are further empowered, upon the completion of the course of study hereby provided for with standings in each subject which are approved by the superintendent of public instruction, to grant a certificate of completion which shall be the equivalent of second grade teachers' certificate and shall be valid as a certificate to teach in any county of the state of North Dakota.

§ 3. BRANCHES REQUIRED.] The course of study herein provided for shall consist of a professional review of the common branches of study, together with physiology, civil government, methods of teaching, practice and observation and not less than one year's course in elementary agriculture and nature study.

§ 4. REQUIREMENTS OF STUDENT.] The student admitted to this course of study must be at the time of entrance at least seventeen years of age, submit evidence to the school authorities of good moral character and must be able to pass, if required, a medical examination showing that he has the general health required to perform the work of a teacher. He must also possess the other qualifications required under the law for the certification of teachers.

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 12, 1909.

CHAPTER 101.

[S. B. No. 58—Movius]

COMPENSATION BOARD OF EDUCATION

AN ACT to Amend Section 955 of the Revised Codes of North Dakota, 1905, Relating to Compensation of Members of the Board of Education.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 955 of the 1905 revised codes of North Dakota is amended to read as follows:

§ 955. COMPENSATION OF MEMBERS WHO MUST NOT BE INTERESTED IN CONTRACTS.] Each member of such board of education shall receive a compensation of one dollar and fifty cents for each meeting of such board actually attended by him; provided, that no compensation shall be allowed for more than one meeting in each calendar month. The members shall not be interested, directly or indirectly, in any contract for making any improvements or repairs, or for erecting any building or for furnishing any materials or supplies for their district.

Approved February 15, 1909.

CHAPTER 102.

[H. B. No. 349—Law]

PHYSICAL EDUCATION.

AN ACT to Amend Section 889 of the Revised Codes of 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PHYSICAL EDUCATION REQUIRED.] Physical education, which shall aim to develop and discipline the body and promote health through systematic exercise, shall be introduced and taught as a regular branch to all pupils in the departments of the public schools of the state and in all educational institutions supported wholly or in part by money from the state.

§ 2. TEACHER EMPLOYED.] School district boards and boards of education in special and in independent districts having a population of over five hundred shall employe regularly a competent person, who shall also be a teacher in said school, to supervise the work in physical education; said physical education shall consist of the theory and practice of physical training and include a practical knowledge of personal hygiene.

§ 3. INSTRUCTION GIVEN IN SUMMER SCHOOLS.] All teachers when convened in institutes or summer training schools for teachers shall receive daily instruction in the theory and practice of physical education and there shall be employed in each institute or summer training school for teachers a competent person to give such instruction.

§ 4. NORMAL SCHOOLS MUST TEACH.] All persons attending any of our state normal schools shall receive a definite and thorough course in the science and art of physical education as will prepare them for efficient service in the subject in the public schools of this state, and no person shall be deemed qualified to receive a diploma from any one of our state normal schools who has not had such training.

§ 5. PENALTY FOR FAILURE.] Any teacher refusing or neglecting to comply with the provisions of this act shall be subject to the same penalties as provided for failure to teach any other required subject.

§ 6. DUTY OF BOARDS.] It shall be the duty of all boards of education and boards of educational institutions receiving money from the state, to make provisions for daily instruction in all schools and institutions under their respective jurisdiction, and to adopt such method or methods as will adapt progressive physical exercise to the development, health and discipline of the pupils in the various grades and classes of schools and institutions receiving aid from the state.

Approved March 12, 1909.

CHAPTER 103.

[S. B. No. 46—Neal]

FREE KINDERGARTENS.

AN ACT to Empower the School Board of Any District to Establish and Maintain Free Kindergartens for the Instruction of Children Between Four and Six Years of Age.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MAY BE ESTABLISHED. COST, HOW PAID. GOVERNMENT. DUTY OF SUPERINTENDENT OF PUBLIC INSTRUCTION.] The school board of any school district in the state, upon a petition signed by a majority of the legal voters in the district, shall have the power to establish and maintain free kindergartens in connection with the public schools of said district, for the instruction of children between four and six years of age, residing in said district, and shall establish such courses of training, study and discipline and such other rules and regulations governing such preparatory or kindergarten

schools as said board may deem best; provided, that nothing in this act shall be construed to change the law relating to the taking of the census of the school population or the apportionment of the state or county school funds among the several counties and districts in this state; provided, further, that the cost of establishing and maintaining such kindergartens may be paid from the school funds of said districts, raised by direct taxation for such purpose, and the said kindergartens shall be a part of the public school system, and governed, as far as practicable, in the same manner and by the same officers as are provided by law for the government of the other public schools of the state; provided, further, that no person shall be employed as a teacher in such kindergarten schools who has not passed a satisfactory examination in such subjects as the state superintendent of public instruction shall require. The state superintendent of public instruction shall adopt rules governing the examination of kindergarten teachers and shall furnish county superintendents with examination questions, and the examinations shall be held in the manner provided by law for the examination of teachers in the public schools; provided, further, that any person who shall complete the course of training for kindergarten teachers at the state normal school or its auxiliaries shall be entitled to teach in the kindergarten schools of this state without examinations.

Approved March 11, 1909.

CHAPTER 104.

[S. B. No. 237—Senate Committee on Education]

SALARY COUNTY SUPERINTENDENT.

AN ACT to Amend Section 777 of the Revised Codes of 1905, as Amended by Chapter 105 of the Session Laws of North Dakota for 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 777 of the revised codes of North Dakota for the year 1905, as amended by chapter 105 of the session laws of North Dakota for 1907, is hereby amended to read as follows:

§ 777. SALARY. DEPUTIES. TRAVELING EXPENSES.] The salary of the county superintendent of schools shall be as follows: In each county having one school and not over five, one hundred and fifty dollars; six schools and not over ten, three hundred dollars; eleven schools and not over fifteen, four hundred dollars; sixteen schools and not over twenty, five hundred dollars; twenty-one schools and not over twenty-five, six hundred dollars; twenty-six schools and not over thirty, seven hundred dollars; thirty-one schools and not over thirty-five, eight hundred dollars; thirty-six schools and

not over forty, nine hundred dollars; forty-one schools and not over fifty, one thousand dollars, and for each additional school ten dollars additional; provided, that in computing the salary of such superintendent no school shall be included unless the same shall have been taught at least four months during the preceding school year; provided, further, that such salary shall not exceed one thousand five hundred dollars in any county where the number of schools does not exceed one hundred thirty, and in counties where the number of schools exceeds one hundred thirty, the county superintendent shall be allowed, in computing such salary, five dollars additional; provided, always, that such salary shall in no case exceed two thousand dollars. In addition thereto he shall receive ten cents a mile for the distance actually and necessarily traveled by him in the discharge of his duties. He shall at the end of every three months make and furnish to the county commissioners an itemized statement, subscribed and sworn to, of the distance so traveled in the discharge of his duties, which shall be audited and ordered paid by the board of county commissioners. The amount of his salary and the appropriation for office deputy shall be determined each year by the actual number of schools or separate departments in graded and high schools in the county in which school has been taught for at least four months during the preceding school year and the same shall be paid out of the county general fund, monthly upon the warrant of the county auditor; provided, that whenever the number of schools in a county is diminished by reason of the consolidation of schools or other provision for the instruction of pupils in any district or districts, the same number of schools shall be counted for such district or districts in computing the salary of the county superintendent as existed before said consolidation or other provision until such time as the number of separate departments in the general school or schools provided for the pupils of vacated schools shall equal the number of schools originally vacated. In counties having fifty or more schools the county superintendent may appoint an office deputy for whose acts as such he shall be responsible, which deputy shall be entitled to a salary equal to fifty per cent of the county superintendent's salary; provided, further, that in counties having one hundred fifty or more schools the county superintendent shall be allowed one deputy for each one hundred schools or major fraction thereof, under the supervision of said superintendent. Such deputies shall be for the purpose of assisting the county superintendent in visiting the schools and in the general supervision of the educational work of the county. They shall possess the qualifications of the county superintendent specified in section 778 and shall each receive a salary of two hundred dollars in excess of that paid to the office deputy.

Approved March 15, 1909.

CHAPTER 105.

[H. B. No. 205—Ployhar]

SCHOOL LAW COMPILATION COMMISSION.

AN ACT Providing for the Appointment of a Committee for the Purpose of Drafting and Reporting the Inconsistencies, Contradictions and Omissions of the School Laws of the State of North Dakota, and Appropriating Money Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSION, HOW CONSTITUTED. DUTIES.] There shall be created not later than the first day of August, 1909, a committee of five persons, of whom the attorney general and the deputy state superintendent of public instruction shall be members, and the other three members shall be appointed by the governor from among the best known and the best posted school men of this state. The said committee shall meet and organize not later than September the first, 1909, and shall proceed with all due care to perform the duties contemplated by this act, as hereafter provided. The committee shall complete its work not later than September first, 1910. The said committee shall report to the next session of the legislature any contradictions, inconsistencies and omissions found in the existing laws, and shall draft and report to that session of the legislature such school laws as, in its judgment, would be of use and benefit to the state, for information, assistance and action of said legislature.

§ 2. APPROPRIATION FOR EXPENSES OF THE COMMISSION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, a sum of money sufficient to meet the actual and necessary expenses of the committee; provided, however, that the members of this commission shall receive no compensation whatever. All bills for expenses shall be paid only upon the presentation of duly verified vouchers, approved by the state board of audit.

§ 3. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 11, 1909.

CHAPTER 106.

[S. B. No. 27—Welo.]

INVESTMENT OF PERMANENT SCHOOL FUND.

AN ACT to Amend Section 155 of Chapter 4 of the Political Code of the State of North Dakota, and All Acts or Parts of Acts Amendatory Thereof, Providing for the Investment of Moneys Belonging to the Permanent Funds of the Common Schools, University, School of Mines, Reform School, Agricultural College, School for the Deaf and Dumb, Normal Schools and All Other Permanent Funds Derived From the Sale of Public Lands or Any Other Source Belonging to the School Divisions of the State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 155 of the political code of the state of North Dakota, and all acts or parts of acts amendatory thereof, are hereby amended to read as follows:

§ 155. BOARD INVESTS FUNDS. COMPENSATION OF BOARD. CONDITIONS OF LOANS.] Said board shall have power, and it is made its duty from time to time to invest any money belonging to the permanent funds of the common schools, university, school of mines, reform school, agricultural college and the school for the deaf and dumb, normal schools and all other permanent funds derived from the sale of public lands or from any other source, in bonds of school corporations or of counties, or of townships, or of municipalities within the state, bonds issued for the construction of drains under the authority of law within the state, bonds of the United States, bonds of the state of North Dakota, bonds of other states; provided, such states have never repudiated any of their indebtedness, or in first mortgages on farm lands in this state, not exceeding in amount one-third of the actual value of any sub-division on which the same may be loaned, such value to be determined by the board of appraisal of school lands; provided, at least one-third of the whole amount of the several permanent funds aforesaid, as computed by the commissioner of university and school lands at the end of each fiscal year, shall be invested in first mortgages on cultivated farm lands in this state, if there is a sufficient demand for investment in such loans; provided, further, that for said services as such board of appraisal, the county auditor and county superintendent of schools shall receive only their necessary traveling expenses, but that the chairman of the board of county commissioners shall be entitled to the same mileage and per diem as when serving on the board of county commissioners. The first mortgages on farm lands in this state shall be made only in the manner following, to-wit:

1. The first mortgages on farm lands and each of them, shall run for a period of time not to exceed twelve years, and the funds so invested shall bear interest at the rate of five per cent per annum, payable annually to the county treasurer of the county in which such lands are located. For the first five years payments shall consist only of interest, paid annually and commencing with the sixth year the interest shall be paid annually as above stated, and the borrower shall have his option of paying ten per cent or any multiple thereof of the principal at any interest bearing date, and the interest when paid shall be covered into and become a part of the interest and income fund.

2. First mortgage loans shall only be made upon cultivated lands within the state, and to persons who are actual residents thereof, and in no case on lands of which the appraised value is less than ten dollars per acre, and in sums not more than five thousand dollars, to any person, firm or corporation.

3. Any or all of said mortgages may be satisfied at any time after three years from the date when made on payment of the whole amount due thereon; provided, if the loan is sought to be paid off in full previous to the time specified for payment in the contract, then the party so paying said loan shall pay in addition to the principal and interest then due on such loan the interest on the principal for six months in advance of date of such payment. All proceedings in regard to investments in first mortgages as provided in this chapter shall conform to and be governed by the laws of the state of North Dakota in such case made and provided. Said board of university and school lands shall not purchase or approve the purchase of any bonds or mortgages except at a legal session thereof, nor unless every member of the board is notified by the secretary of said board in time to be present at such meeting, and notified also that the question of purchasing or acting on a proposition for the purchase of certain bonds or mortgages is to be considered at the meeting, nor unless a majority of all the members vote in favor of such purchase, and the vote on the purchase of every bond and mortgage shall be taken by the yeas and nays and shall be duly recorded in the books of the board.

§ 2. SATISFACTION OF MORTGAGE LOANS ON REAL ESTATE.] The governor and superintendent of public instruction, who are respectively the chairman and secretary of the board of university and school lands, are hereby empowered and required to jointly satisfy real estate mortgages given to the board of university and school lands whenever the loans secured by such mortgages shall have been fully paid, as attested by the records in the office of the state treasurer.

§ 3. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no law governing the provisions of this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 26, 1909.

CHAUTER 107.

[H. B. No. 48—Traynor]

LEASING PORTIONS OF CAMPUSES OF EDUCATIONAL INSTITUTIONS.

AN ACT to Authorize the Board of Trustees or Directors of the State University and School of Mines, the State Agricultural College, the State School of Forestry, the North Dakota Academy of Science, the State Industrial School and the Various State Normal Schools of the State of North Dakota to Lease Portions of the Campuses to Societies and Organizations of Students and Graduates Thereof, and Legalizing Such Leases Heretofore Made.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. POWER TO LEASE GRANTED.] The board of trustees or directors of the state university and school of mines, the state agricultural college, the state industrial school, the North Dakota academy of science, the state school of forestry and the various state normal schools and such other state institutions of learning of the state of North Dakota as may hereafter be established, shall have power to grant leases of land of portions of the campuses of said institutions to student and graduate student organizations for the purpose of erecting and maintaining thereon student clubhouses or dormitories; provided, that said organizations shall first have incorporated under the laws of the state of North Dakota and shall have submitted to the board of trustees or directors plans and specifications of the building proposed to be erected thereon; and, provided, further, that in relation to the conduct and behavior of said organizations and their members in and about said premises and the use to be made of such buildings and premises said organizations and their members shall, in each instance, be subject to the management and control of the board of trustees or directors, and the faculty of the institution upon whose lands said lease is granted. Such premises and improvements thereon shall at all times remain under the absolute and exclusive control of the state, and the state or the board of trustees or directors of the institution upon whose lands such lease shall be granted may at any time revoke the same, and any such lease as may have been granted by any such board to any such organization for such purpose prior to the passage of this act is hereby legalized and must

be considered as binding on the parties thereto, in so far as the same shall be in accordance with the provisions of this act and the constitution of this state.

§ 2. EMERGENCY.] Whereas, an emergency exists in that dormitories as are contemplated in this act are now in the process of erection, and no law exists covering the provisions herein contemplated, therefore, this act shall take effect and be in force from and after the date of its passage and approval.

Approved February 19, 1909.

EMBALMERS

CHAPTER 108.

[S. B. No. 162—Duis]

QUALIFICATIONS OF EMBALMER.

AN ACT to Amend and Re-enact Section 344 of Article 17 of the Revised Codes of North Dakota of 1905, Relating to Qualifications of Embalmers of Dead Human Bodies, and the Duties and Relations for the Shipment Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 344 of article 17 of the revised codes of North Dakota is amended and re-enacted to read as follows:

§ 344. LICENSE ISSUED, WHEN.] Every person who wishes to practice the profession of embalming dead human bodies in the state of North Dakota or prepare for shipment any dead human body, shall appear before the state board of embalmers, or such member thereof designated, as hereinbefore provided, for examination on their knowledge of embalming, sanitation, preservation of the dead, disinfection of a deceased person and the apartments, bedding, clothing, excretion and anything likely to be affected in case of death from infectious or contagious disease, in accordance with the rules and regulations of the state board of health. Such examination shall be in writing and all examination papers shall be kept on record by said state board of embalmers; and if the applicant be of good moral character and passes a satisfactory examination, then the said board shall issue to said applicant, on payment of the sum of five dollars to the treasurer of said board, a license to practise the profession of embalming for the term of one year. If the applicant desires the renewal of the license, the said board shall grant it, except for cause, and the annual fee for the renewal of the license shall not exceed three dollars.

Approved March 13, 1909.

EVIDENCE

CHAPTER 109.

[S. B. No. 23—Stevens]

EVIDENCE OF DECEDENTS.

AN ACT to Amend Chapter 119 of the Session Laws of 1907, of the State of North Dakota, In Regard to Evidence as to Statements and Transactions With Decedents.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 119 of the session laws of North Dakota for the year 1907 is hereby amended to read as follows:

§ 7253. WHO NOT EXCLUDED. HUSBAND AND WIFE. DECEDENTS' TESTIMONY.] No person offered as a witness in any action or proceeding in any court, or before any officer or person having authority to examine witnesses or hear evidence, shall be excluded or excused by reason of such person's interest in the event of the action or proceeding; or because such person is a party thereto, or because such person is the husband or wife of a party thereto, or of any person in whose behalf such action or proceeding is commenced, prosecuted, opposed or defended, except as hereinafter provided.

1. A husband can not be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this subdivision does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding, for a crime committed by one against the other.

2. In civil action or proceeding by or against executors, administrators, heirs-at-law or next of kin in which judgment may be rendered or order entered for or against them, neither party shall be allowed to testify against the other as to any transaction whatever with or statement by the testator or intestate unless called to testify thereto by the opposite party; and where a corporation is a party in proceedings mentioned in this section, no agent, stockholder, officer, or manager of such corporation shall be permitted to testify to any transaction had with the testator or intestate. But if the testimony of a party to the action or proceeding has been taken and he shall afterwards die and after his death the testi-

mony so taken shall be used upon any trial or hearing in behalf of his executors, administrators, heirs-at-law or next of kin, then the other party shall be a competent witness as to any and all matters to which the testimony so taken relates; provided, further, that in any action or proceeding by or against any surviving husband or wife touching any business or property of either, or in which the survivor or his or her family are in any way interested, such husband or wife shall be permitted, if they shall so desire, to testify under the general rules of evidence as to any or all transactions and conversations had with the deceased husband or wife during their life time touching such business or property.

§ 2. EMERGENCY.] Whereas, an emergency exists in that under the present statutes a surviving husband or wife may be embarrassed by the rules of evidence now in effect; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1909.

EXECUTIONS

CHAPTER 110.

[H. B. No. 194—Hendrickson]

JURY AT EXECUTIONS.

AN ACT Providing for a Jury to Be Official Witnesses of the Execution of Persons Executed at the State Peniteniary; Providing for Guards to Act as Death Watch Over Condemned Prisoners.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WITNESSES OF EXECUTION.] It shall be the duty of the warden of the state penitentiary to summon a jury of three men, one of whom shall be a regularly licensed physician, whose duty it shall be to witness the execution and infliction of the death penalty on every person condemned to death and executed at the state penitentiary, and to examine the body of the condemned person after the execution has been performed, and to render their verdict in writing as soon as they are convinced that life is extinct. The warden shall attach this verdict to his return, and shall keep a verified copy on file at the penitentiary. Each juror shall receive a fee of six dollars, and no mileage, for his services.

§ 2. DEATH WATCH.] It shall be the duty of the warden of the state penitentiary to appoint two men to act as the death watch whenever a person is committed to the penitentiary to be executed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there are persons condemned to death, and no provision of law exists authorizing the summoning of a jury to witness an execution, therefore this act shall take effect from and after its passage and approval.

Approved March 16, 1909.

EXPERIMENT STATIONS

CHAPTER 111.

[H. B. No. 316—Sgutt]

HARVEY SUB-STATION.

AN ACT Creating and Establishing an Agricultural Experiment Station to be Located at or Near the City of Harvey, in Wells County, in Connection With the North Dakota Agricultural College, at Fargo, and Under the Direction of the Board of Directors of Said College and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATED.] There is hereby created and established a state agricultural experiment station to be located at or near the city of Harvey, in Wells county, in connection with the North Dakota agricultural college at Fargo, and under the direction of the board of directors of said college.

§ 2. EXPERIMENTS TO BE MADE.] It shall be the duty of said board of directors at said station to make experiments with native and other grasses and forage product, as well as other agricultural products of the soil, with a view of improving and enlarging the supply of forage of the surrounding district, and extending and increasing the agricultural products thereof; provided, that said experiments shall not be undertaken, nor said station established, unless a suitable area of land, not less than one hundred and sixty acres within two miles of the city of Harvey shall be donated free of charge by warranty deed to the state of North Dakota.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury not otherwise appropriated, the sum of ten thousand dollars for the purpose of establishing said station and conducting said experiments.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith house bill No. 316, a bill for an act creating and establishing an experiment station at or near the city of Harvey in

the state of North Dakota, with my approval thereon, except as to the item appropriating ten thousand dollars, which item is disapproved for the reason that the appropriations exceed the revenues of the state.

JOHN BURKE,
Governor.

CHAPTER 112.

[H. B. No. 306—Hanley]

AGRICULTURAL SUB-STATION AT MANDAN.

AN ACT Creating and Establishing an Agricultural Experiment Station on the Reform School Grounds Near Mandan, in Morton County, Providing for its Management and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. STATION CREATED.] There is hereby created and established an agricultural, grass and tree experiment station, to be located on the grounds of the state reform school, and to be operated in connection with the North Dakota agricultural college at Fargo, and under the direction of the board of directors of said college.

§ 2. EXPERIMENTS TO BE MADE.] It shall be the duty of said board, as constituted herein, at said station, to make experiments with native grasses, forage products, other grasses, agricultural products of the soil, trees, etc., both under irrigation and the so-called dry farming, with a view to improving and enlarging the supply of forage of said district and extending and increasing the agricultural products thereof; provided, that all necessary labor in connection with said experiment station, except the services of an expert, shall be performed by the boys of said reform school under the supervision of the officers of said school and all surplus products of said experiment station shall apply on the maintenance of said reform school.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury, not otherwise appropriated, the sum of five thousand dollars for the purpose of establishing said station and for conducting said experiments, as provided for in this act, and for no other purpose.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for said experiment station, therefore this act shall take effect and be in force from and after its passage and approval.

PARTIAL VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith house bill No. 306, a bill creating and establishing an experiment station at the reform school near Mandan, with my approval thereon, except as to the item appropriating five thousand dollars. This item is disapproved for the reason that the appropriations exceed the revenue of the state.

JOHN BURKE,
Governor.

CHAPTER 113.

[S. B. No. 255—Sharpe]

EDGELEY EXPERIMENT STATION IMPROVEMENTS.

AN ACT Making an Appropriation for the Edgeley Experiment Station Located at the City of Edgeley, in LaMoure County.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] The sum of two thousand five hundred dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the Edgeley experiment station located at the city of Edgeley, LaMoure county, for the purpose of providing a seed house and equipment and other improvements for properly carrying on the work of the station.

§ 2. EMERGENCY.] Whereas, an emergency exists in that part of this money is needed for immediate use, this law shall be in force and effect after its passage and approval.

Approved March 3, 1909.

CHAPTER 114.

[S. B. No. 90—Simpson]

DICKINSON EXPERIMENT STATION IMPROVEMENTS.

AN ACT Making an Appropriation for the Dickinson Experiment Station, Located at the City of Dickinson, in Stark County.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] The sum of three thousand five hundred dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the Dickinson experiment station, located at the city of Dickinson, Stark county, for the purpose of erecting a seed house and granary.

§ 2. EMERGENCY.] An emergency exists, in that some of the above appropriated sums will be required prior to July 1, 1909, therefore this act shall be in force from and after its passage and approval.

Approved March 4, 1909.

CHAPTER 115.

[S. B. No. 91—Simpson]

HETTINGER SUB-STATION.

AN ACT Creating and Establishing an Agricultural Experiment Station to be Located at or Near the Village of Hettinger, in Adams County, in Connection With the North Dakota Agricultural College at Fargo, and Under the Direction of the Board of Directors of Said College, and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATED.] There is hereby created and established a state agricultural experiment station to be located at or near the village of Hettinger, in Adams county, in connection with the North Dakota agricultural college at Fargo, and under the direction of the board of directors of said college.

§ 2. OBJECT OF. DONATION REQUIRED.] It shall be the duty of said board of directors at said station to make experiments with native and other grasses and forage product, as well as other agricultural products of the soil, with a view of improving and enlarging the supply of forage of the surrounding district, and extending and increasing the agricultural products thereof; provided, that said experiments shall not be undertaken, nor said station established, unless a suitable area of land, not less than one hundred sixty acres, within two miles of the said village of Hettinger, shall be donated free of charge by warranty deed to the state of North Dakota.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury not otherwise appropriated, the sum of ten thousand dollars for the purpose of establishing said station and conducting said experiments.

Approved March 4, 1909.

CHAPTER 116.

[S. B. No. 37—Cashel]

WHEAT EXPERIMENTS.

AN ACT Providing for Experiments to Determine the Milling Value of Cereals, the Baking and Other Economic Properties of the Flours Produced Therefrom and the Chemical Composition Thereof, and to Provide for the Publication of the Information Thereby Obtained; to Provide an Appropriation for Such Work, and to Repeal Section 1118 of the Revised Codes of 1905 Pertaining Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AGRICULTURAL COLLEGE MAKES TESTS.] It shall be the duty of the North Dakota government agricultural experiment station at Fargo to conduct experiments and determine the comparative milling values of the different grades and kinds of cereals and baking tests of the flours made therefrom. Such tests, as far as possible, shall be made from the products grown on soils in North Dakota which have been analyzed and tested and reported on by the geological survey branch of said government agricultural experiment station. A record shall be kept and published of the different kinds and grades of cereals received and by whom graded, the name of the person from whom received, with address, the nature of the soil, previous cropping and number of years which the land has been cropped. No cereals shall be tested if the same cannot be identified and reported on as hereinbefore mentioned. The result of the chemical analysis of each sample shall be kept, which shall show the total weight of the sample, total weight of flour, total weight of feed, total weight recovered and per cent of flour; also data as to the moisture and proteids in the different grades of cereals, and analysis of the flour or other product made from the different kinds and grades of cereals and the yield and quality of bread or other product made from the same. In addition to such information it shall the duty of the said North Dakota government agricultural experiment station to obtain, tabulate and publish such other and further information in relation to the comparative values of the different kinds and grades of cereals and products made therefrom as shall be of value to the residents of this state.

§ 2. APPROPRIATION.] For the purpose of carrying out the provisions of this act there is hereby appropriated the sum of five thousand dollars, or so much thereof as is necessary, out of any money in the state treasury not otherwise appropriated, to the North Dakota government agricultural experiment station at Fargo, the said money to be used in the further equipping of the experimental

flour mill, adding room for storing and testing cereals, for the purchase of samples, for the expense of collecting samples, and the gathering of information regarding the properties of cereals and for employing competent investigators.

§ 3. REPEAL.] All acts or parts of acts in conflict with the provisions of this act, and especially section 1118 of the revised codes of 1905, are hereby repealed.

Approved March 20, 1909.

CHAPTER 117.

[S. B. No. 159—Simpson]

MANAGEMENT OF AGRICULTURAL SUB-STATIONS.

AN ACT Providing for the Management and Control of, for Making Annual Reports by the Respective Superintendents and Appropriating Money Annually for the Support and Maintenance of the Agricultural Sub-Experiment Stations Located at Dickinson, Williston and Langdon.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HOW GOVERNED.] Each of the sub-experiment stations located at Dickinson,, Williston and Langdon, and such other agricultural sub-experiment stations as may hereafter be established by law, shall be operated in connection with the North Dakota government experiment station at Fargo and under the exclusive management and control of the board of trustees of the agricultural college, as provided for in sections 1101 and 1102 of the revised codes of 1905, and as provided for in the several acts establishing said sub-stations, except as herein amended.

§ 2. DUTY OF SUPERINTENDENTS.] It shall be the duty of the superintendent of each of said sub-experiment stations to make an annual report to the board of trustees on or before the first day of January of each year. Said report shall set forth in detail the investigations and experiments made during the year, together with recommendations for the welfare of the sub-experiment station; said report shall be printed in such numbers as the board may direct and the expense thereof shall be charged to the sub-station making such report; provided, however, the director of the government experiment station may require of the superintendent of each of said sub-experiment stations a summarized statement setting forth the condition of the sub-experiment station in his charge and an outline of the work accomplished during the preceding biennial period, for said director's biennial report.

§ 3. APPROPRIATION.] There is hereby annually appropriated out of any moneys in the state treasury not otherwise appropriated the sum of fifteen thousand dollars to be paid quarterly to the treasurer of the North Dakota agricultural college on the first days of

April, July, October and January of each year, upon the order of the state auditor, who is hereby directed to draw his order for the same for the use of the government experiment station at Fargo and it shall be the duty of the board of trustees of the North Dakota agricultural college to set apart annually this sum for the support and maintenance of the sub-experiment stations located at Dickinson, Williston and Langdon; said fifteen thousand dollars to be divided as follows: Five thousand dollars annually for the support and maintenance of the Dickinson sub-experiment station; five thousand dollars annually for the support and maintenance of the Williston sub-experiment station; and five thousand dollars annually for the support and maintenance of the Langdon sub-experiment station.

§ 4. REPEAL.] All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] The fact that work at these sub-stations must begin as soon as spring opens creates an emergency, therefore this act shall take effect upon its passage and approval.

Approved March 4, 1909.

FEES

CHAPTER 118.

[H. B. No. 69—Fraine]

FEES OF ADMINISTRATORS.

AN ACT to Amend Section 8184 of the Revised Codes of North Dakota, for 1905, Relating to the Commissions to be Allowed Administrators and Executors When No Provision Is Made in the Will.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8184 of the revised codes of North Dakota, is amended to read as follows:

§ 8184. WHEN NO PROVISION IN WILL, COMMISSIONS ALLOWED.] When no compensation is provided by the will or the executor renounces all claim thereto, he must be allowed commissions on the amount of the whole estate accounted for by him, excluding all property not ranked as assets, as follows: For the first one thousand dollars, at the rate of five per cent; for all above that sum and not exceeding five thousand dollars, at the rate of two per cent; for all above that sum at the rate of one per cent; and the same commissions shall be allowed administrators. In all cases such further

allowance may be made as the county court may deem just and reasonable for any extraordinary service. The total amount of such allowance must not exceed the amount of commissions allowed by this section.

Approved March 16, 1909.

CHAPTER 119.

[H. B. No. 285—Kneeland]

FEES IN COUNTY COURT.

AN ACT to Amend Section 2589 of the Revised Codes of 1905, Relating to the Fees of County Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2589 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 2589. COUNTY TO BE REIMBURSED. HOW.] For the purpose of reimbursing the county for the salaries provided in the foregoing sections to be paid the judges of county courts, each petitioner for letters testamentary, or administration or guardianship, before filing the same in the county court, shall pay or cause to be paid into the county treasury, for the use and benefit of the county in whose county court proceedings are to be instituted to settle the estate of a deceased person or for the appointment of a guardian, the sum of five dollars, and when the value of said estate has been ascertained by the court, through the inventory and appraisement or upon hearing of same, as legally required, within thirty days after the issuance of letters testamentary, of administration or guardianship, the judge of said court shall require an additional fee to be paid from said estate into said county treasury, of five dollars for each and every one thousand dollars or fraction thereof, in excess of the first one thousand dollars of value therein found, as shown by said inventory and appraisement, and in all cases in addition thereto, all sums necessarily expended in publishing or serving notices required by law. In all civil and criminal actions the same fees and costs shall be paid as in like actions in the district court, the same to be paid to the clerk of the county court, a record to be kept thereof and the same turned over by him to the county treasurer.

Approved March 12, 1909.

CHAPTER 120.

[H. B. No. 90—Doyle, of Foster]

FEES OF SHERIFF.

AN ACT to Amend Section 2600 of the Revised Codes of 1905, and to Repeal Section 2601 of the Revised Codes of 1905, Relating to Sheriff's Fees.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2600 of the revised codes of 1905 is hereby amended to read as follows:

§ 2600. FEES TO BE CHARGED.] The sheriff shall be entitled to charge and receive the following fees:

1. Serving capias with commitment of bail and return, two dollars.
2. For each search or search warrant, one dollar.
3. Arresting under search warrant, each defendant, one dollar.
4. Serving summons, warrant of attachment, order of replevin, injunctional order, citation or other mesne process and return thereon, sixty cents; each defendant besides the first, fifty cents.
5. Copy of summons or order of attachment, twenty-five cents.
6. Copy of injunctional order, twenty-five cents.
7. Serving subpoena for witness, each person, twenty-five cents.
8. Taking and filing bond in claim and delivery, or other undertaking to be furnished to and approved by the sheriff, one dollar.
9. Travelling expenses for each mile actually and necessarily traveled, ten cents; provided, that when it is necessary to travel by team or automobile, the actual cost of the same may be charged in addition to such mileage. In no case, however, shall the cost of the livery or automobile exceed three dollars per day, the number of miles which constitute a day travel to be reckoned as follows: When the distance traveled is twenty miles or under, a half a day shall be allowed for the same, and when the distance traveled is greater than twenty miles and not to exceed forty miles, a full day shall be allowed; this same ratio to prevail when the distance traveled exceeds forty miles.
10. Making copy of any process, bond or paper, other than herein provided, for each ten words, one cent.
11. Levying writ of execution and return thereof, one dollar.
12. Levying writ of possession with the aid of the county, three dollars and fifty cents.
13. Levying writ of possession without the aid of the county, two dollars.
14. Summoning grand jury, including mileage to be paid by the county, eight dollars.

15. Summoning petit jury, sixteen dollars and ten cents per mile for each mile actually and necessarily traveled, to be paid by the county.

16. Summoning special jury, for each person empanelled, twenty-five cents.

17. Serving notice of motion or other notice or order of the court, fifty cents.

18. Executing writ of habeas corpus and return, one dollar and twenty-five cents.

19. Serving writ of restitution and return, one dollar and twenty-five cents.

20. Calling inquest to appraise any goods and chattels which he may be required to have appraised, sixty cents, and to each appraiser, to be taxed as costs, one dollar.

21. Advertising sale in newspaper, in addition to the publisher's fees, sixty cents.

22. Advertising in writing for sale of personal property, one dollar.

23. Executing writ or order of partition, two dollars.

24. Making deed for land sold on execution or order of sale, two dollars.

25. Committing prisoner to prison, or discharging therefrom, fifty cents.

26. Opening court and attending thereon, four dollars per day, to be paid by the county; and the sum of two dollars per day shall be allowed for attendance in justice's court in criminal actions, but this per diem shall not be construed to apply to deputies.

27. Commissions on all moneys received and disbursed by him on execution, order of sale, order of attachment, decree, or on sale of real or personal property, shall be:

(a) For each dollar not exceeding four hundred dollars, three cents.

(b) For each dollar above four hundred dollars, and not exceeding one thousand dollars, two cents.

(c) For each dollar in excess of one thousand dollars, one cent.

28. In all cases in the district court where persons in whose favor the execution order of sale is issued, shall bid in the property sold on execution or judgment, the sheriff or person making such sale shall receive the following compensation:

(a) When the amount for which the property is bid in does not exceed one thousand dollars, the sum of five dollars and no more.

(b) When the amount for which the property is bid in exceeds one thousand dollars, the sum of ten dollars, and no more.

29. For services in case of redemption of property from sale under execution or mortgage foreclosure, for issuing certificate of redemption, one dollar.

30. For selling real property under foreclosure of mortgages by advertisement, the same fees as are allowed by law for the sale of real property under a judgment of foreclosure and sale of such property, and no more.

31. For boarding prisoners, not exceeding seventy-five cents per day each, to be determined by the board of county commissioners.

32. For distributing ballot boxes to the various precincts, two dollars per day and mileage.

33. In all cases where personal property shall be taken by the sheriff on execution or under a warrant of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same percentage on the appraised value thereof as in case of sale.

34. For the expense of taking and keeping possession of and preserving property under attachment, execution or other process, such sum as the court may order, not to exceed the actual expense incurred, and no keeper must receive to exceed three dollars per day, nor must he be so employed, unless the property is of such character as to require the personal attention and supervision of a keeper. No property must be placed in charge of a keeper if it can be safely and securely stored, or when there is no reasonable danger of loss.

§ 2. REPEAL.] Section 2601 of the revised codes of 1905 is repealed by this act.

Approved March 17, 1909.

CHAPTER 121.

[H. B. No. 171—Senour]

FEES OF POUND MASTER.

AN ACT to Amend Section 3195 of the Revised Codes of the State of North Dakota for the Year 1905, Relating to the Fees of Pound Masters and Providing for Advertising Estrays According to Chapter 117 of the Session Laws of the Year 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3195 of the revised codes of 1905 is amended to read as follows:

§ 3195. FEES OF POUND MASTER AND NOTICE OF TAKING UP ESTRAYS. SALES.] The pound master is allowed to charge and collect the following fees: For taking into pound or discharging therefrom any horse, ass or mule, and all neat cattle, twenty cents each; for every sheep or lamb, ten cents each; and for every hog, large or small, ten cents each; and twenty-five cents for keeping each twenty-four hours in pound; and the pound master has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals

until the same are paid; and if the same are not paid and said animals removed within ten days after they are impounded the pound master shall give notice as provided in chapter 117 of the session laws of 1907, and also by posting in three of the most public places in the township, notices that said animals, describing them, are impounded, and that unless the same are taken away and fees paid within thirty days after the date of such notice, he will sell the same at public vendue at the place where the township meetings of such township are usually held; and on the day designated in such notice the poundmaster shall expose such animals for sale and sell the same to the highest bidder for cash, for which service he shall receive two per cent of the purchase money for each animal.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 13, 1909.

FIRE ARMS

CHAPTER 122.

[H. B. No. 372—Hale]

USE OF "SILENCER" PROHIBITED.

AN ACT Prohibiting the Use, Sale or Purchase of Any Device Known as a Silencer to be Used on Any Firearm.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PROHIBITED. EXCEPTION.] The use of any device whatsoever for the purpose of silencing or deadening the sound or report of any firearm used in this state is hereby prohibited; provided, that the use of such device may be permitted the national guard or regular army on any rifle range in this state under the supervision of a commissioned officer.

§ 2. NOT LAWFUL TO SELL.] No person shall be permitted to sell or offer for sale any device or attachment to any firearm which will silence or deaden the sound or natural report of the same when discharged.

§ 3. PENALTY.] Any person violating the provisions of this act shall be punished by a fine of not less than fifty dollars or more than one hundred dollars and costs of prosecution or imprisonment in the county jail for not less than ninety days or more than six months, or by both such fine and imprisonment.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is now in existence no provision prohibiting the use of a firearm silencer in this state, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1909.

FIREMEN

CHAPTER 123.

[S. B. No. 96—Kennedy]

FIREMEN'S RELIEF ASSOCIATION PENSION FUND.

AN ACT Creating a Fund and Providing for the Disbursement Thereof, for Pensions and Relief by Firemen's Relief Associations, in Cities, Towns and Villages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PAID FIRE DEPARTMENT AND FIREMEN'S RELIEF ASSOCIATION.] In cities, towns and villages having a paid fire department and a duly organized and incorporated fireman's relief association, the amount received by the city, town or village treasurer, as provided in section 2968, of article 9, revised codes of North Dakota, 1905, shall be apportioned as follows: One-half shall be placed in a fund to be disbursed by the city council, trustees or other governing body of such city, town or village in maintaining such fire department and one-half shall be paid to the treasurer of the fireman's relief association, to be disbursed only for the following purposes, viz.:

First: For the maintenance of the fireman's relief association.

Second: For pensions and the relief of sick, injured and disabled members of any fire department in such city, town or village and their widows and orphans.

Third: For the payment of service pensions as hereinafter provided in such amounts and in such manner as its articles of incorporation and by-laws shall designate. Every such fire department relief association organized under any law of this state may pay out of any funds received from the state, or other source, a service pension, in such amounts, not exceeding forty dollars per month, as may be provided by its by-laws to each of its members who have heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty years, and who has done, or hereafter shall do, active duty for twenty years or more as a member of a volunteer, paid, or partially paid and partially volunteer fire depart-

ment in the municipality where such association exists, and who has been, or shall hereafter be a member of such fire department relief association at least ten years prior to such retirement, and who complies with such additional conditions as to age, service and membership as may be prescribed by the by-laws of such association. Such pensions shall be uniform in amount, but all may be decreased or increased, within the amount above specified, whenever the amount of funds on hand renders such action advisable. No such pensions shall be paid to any person while he remains a member of a fire department, and no person receiving such pension shall be entitled to other relief from such association.

§ 2. QUALIFICATIONS FOR RELIEF AND PENSIONS.] The qualifications as to age and term of service, shall not apply to members of such fire department, who make application for a pension on account of injuries or disabilities, which unfit them for the duties of an active fireman, and such relief association shall pay a pension to such members, or to the widows and orphans of deceased firemen, in such sums and under such limitations and conditions, as its articles of incorporation and by-laws shall provide and permit.

§ 3. ASSOCIATION TO REDUCE AMOUNT OF PENSIONS.] Every such association shall at all times have and retain the right to reduce the amount of pensions or to increase them whenever the amount of funds on hand or for other good reasons, such reductions or increase seems advisable or proper to such relief association, but said pension shall not exceed the amount of forty dollars per month to any pensioner or to any one family.

§ 4. SECRETARY AND TREASURER OF RELIEF ASSOCIATIONS TO MAKE ANNUAL REPORTS.] The secretary and treasurer of every such relief association shall prepare annually a report of all receipts and expenditures of such association for the previous year, showing for what purpose the money was paid and expended, and to whom, which report shall be filed in the office of the city auditor of the city and the clerk of the town or village in which such association is situated and a duplicate of such report shall also be filed with the state auditor before any money shall be paid to any such relief association. The money paid to such relief association shall be expended only for the pensioning and relief of sick, injured, disabled and retired members of any fire department in such city, town or village, and their widows and orphans as authorized and permitted by this act.

§ 5. DEFINING FIREMEN ENTITLED TO PENSION OR RELIEF.] For the purpose of this act no substitute fireman, or any one serving on probation, or any fireman in a city, town or village having a relief association in its fire department who is not a member of such association, shall be deemed to be a fireman within the meaning of this act. The treasurer of every such relief association before entering upon the duties of his office, shall give a good and sufficient bond to said relief association conditioned for the faithful discharge of

the duties of his office, and for the safe keeping and paying over, according to law, of all moneys which come into his hands as such treasurer.

§ 6. PENSIONS NOT SUBJECT TO LEGAL PROCESS.] No payments made or to be made by such association to any member on the pension roll shall be subject to judgment, garnishment or execution, or other legal process, and no persons entitled to such payments shall have the right to assign the same, nor shall the association have the authority to recognize any assignment, or pay over any sum which has been assigned.

§ 7. PUBLIC EXAMINER TO MAKE ANNUAL EXAMINATION.] It shall be the duty of the public examiner to annually examine the books and accounts of the secretary and treasurer of such relief association receiving funds under the provisions of this act, and if he finds that the money or any part of it has been or is being expended for unauthorized purposes, he shall report the same to the governor. The governor shall thereupon direct the state auditor not to issue any warrants for the benefits of the fire department or relief association of such city, town or village, until it shall be made to appear to the public examiner, who shall report the fact to the governor, that all money wrongfully expended has been replaced. The governor may take such further action as the emergency may demand.

§ 8. POWERS OF ASSOCIATION THROUGH TRUSTEES.] Said association, through its board of trustees and officers shall have full charge, management and control, of said funds herein provided for, which said funds shall be derived from the following sources:

First: From interest, rents, gifts or money from other sources.

Second: From funds received from the state of North Dakota.

§ 9. REPEAL.] All acts or parts of acts inconsistent with this act are hereby repealed.

§ 10. EMERGENCY.] Whereas, an emergency exists in that there is no provision in law for the maintenance of the fireman's relief association, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1909.

FIRE PROTECTION

CHAPTER 124.

[S. B. No. 290—Welch]

FIRE ESCAPES.

AN ACT Requiring One or More Stationary Fire Escapes, Consisting of Stairways, to Be Attached to the Outside of Each One and Every Story, Above the First Story, of all School Houses in This State Having More Than One Story, Designating Those Whose Duty it Shall be to Have Said Fire Escapes Installed, Prescribing the Time Within Which Said Fire Escapes Shall Be Installed and Prescribing the Punishment For a Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. FIRE ESCAPES REQUIRED.] One or more stationary fire escapes, consisting of stairways, shall be attached to the outside of each one and every story, above the first story, of all school houses in this state having more than one story and not provided with a front and rear exit each at least four feet six inches in width.

§ 2. DUTY OF SCHOOL OFFICERS.] It shall be the duty of all persons having charge of such school houses, including trustees, boards of directors and boards of education, to comply with the provisions of the last section within six months after the same shall take effect.

§ 3. PENALTY.] Any and all persons failing to comply with the provisions of sections one and two of this act shall be deemed guilty of a misdemeanor.

§ 4. EMERGENCY.] An emergency exists in this, that a great many schools in this state are not provided with stationary fire escapes, consisting of stairways, above the first story of those school houses having more than one story, therefore this act shall be in force and effect from and after its passage and approval.

Approved March 15, 1909.

FIRE WARDENS

CHAPTER 125.

[S. B. No. 72—McArthur]

FOREST FIRE WARDENS.

AN ACT Creating the Office of Forest Fire Warden and Prescribing the Powers, Duties and Compensation of Such Office.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. OFFICE OF FOREST FIRE WARDEN CREATED. WHO SHALL SERVE AS WARDENS.] The office of forest fire warden is hereby created. It shall be the duty of each supervisor of a civil township in this state in which at least twenty-five per cent of the total area is wood land, to act as forest fire warden therein. At the second March meeting each year, the township supervisors shall divide their township into three forest fire warden districts, one for each warden. For unorganized townships having at least twenty-five per cent of wood land, the board of county commissioners shall at the regular January meeting of each year, appoint two or more forest fire wardens for each township, each warden to have supervision over such portion thereof as the board may designate, and to serve for a period of one year.

§ 2. POWERS AND DUTIES OF WARDENS.] Each warden shall be empowered and it shall be his duty to take such precautions against the kindling and spreading of forest fires as he may deem necessary, especially in dry and dangerous seasons of the year. He shall have power, and it shall be his duty, whenever his district is threatened with approaching fire, or suffering from forest fires, to call to his assistance any number of able bodied men within his district to proceed to the place of danger and extinguish the fire. Whenever a forest fire has occurred in his district it shall be his duty to proceed immediately to a strict inquiry into the cause and origin of the fire, and in all cases, where such fire has been found to have originated through the unlawful act of any person, it shall be his special duty to make complaint before the proper magistrate.

§ 3. COMPENSATION.] Each forest fire warden shall receive a compensation of three dollars per day for the time actually and necessarily employed in the discharge of his duties. Any employe engaged in like service shall receive a compensation of two and fifty one-hundredths dollars per day. In civil townships such

compensation shall be paid out of the township general fund; in unorganized townships such compensation shall be paid out of the county general fund.

§ 4. REPEAL.] Every act or part of an act in conflict with the provisons of this act is hereby repealed.

Approved March 11, 1909.

FORECLOSURES

CHAPTER 126.

[S. B. No. 10—Steele of Ward]

FORECLOSURE OF MORTGAGES ON REAL PROPERTY.

AN ACT Defining the Duties of the Register of Deeds Relating to Foreclosure of Mortgages on Real Property by Advertisement, and Prescribing the Penalty for Violating the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF REGISTER OF DEEDS.] It shall be the duty of the register of deeds within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in foreclosure of real estate mortgages by advertisement, to send by registered mail a copy of such affidavit of publication to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to him at the postoffice given of record in his office. If no postoffice address appears of record or is unknown to the register of deeds, then to the postoffice located nearest the land described in such certificate.

§ 2. AFFIDAVIT OF MAILING.] The register of deeds shall make affidavit setting forth the time and manner of such mailing, the description of such land, the name and postoffice address of the person or persons to whom such affidavit of publication was mailed and attach thereto the registry receipt or receipts, which said affidavit and registry receipt or receipts shall be filed and recorded in his office; provided, the failure of the register of deeds to comply with the provisions of this act shall in no way invalidate the foreclosure proceedings nor affect the title to the property involved.

§ 3. REGISTER OF DEEDS LIABLE FOR DAMAGES.] The failure of the register of deeds to comply with the provisions of this act shall render him liable, in a civil action, to the party entitled to the copy herein described, for any damage sustained by him by reason of such failure.

Approved March 11, 1909.

CHAPTER 127.

[S. B. No. 110—Gronvold]

FORECLOSURE SALE OF PERSONAL PROPERTY.

AN ACT to Amend Section 7508 of the Revised Codes of the State of North Dakota, for the Year 1905, Relating to Places of Sale Upon Foreclosure of Personal Property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7508 of the revised codes of North Dakota for the year 1905, be and the same is hereby amended to read as follows:

§ 7508. PLACES OF SALE DESIGNATED.] The boards of county commissioners of the several counties shall at their regular quarterly meeting in April of each year, designate not less than five public places in their respective counties which shall be the only market places for the sale of chattels under the provisions of this article, unless the mortgagor and mortgagee agree upon and designate in writing another place in the county as the place of sale, in which case the sale shall be made at the place so designated; which written agreement or designation shall be attached to and filed with the report of sale. Growing or harvested crops, grain in bulk, lumber, cordwood, buildings, threshing machines, engines, boilers and attachments and other like articles and such other property as by reason of its bulk cannot be conveniently moved, may be sold where situated, under the provisions of this article, without moving the same to one of the market places herein provided for.

Approved March 5, 1909.

GAME AND FISH

CHAPTER 128.

[H. B. No. 156—Hale]

GAME AND FISH.

AN ACT Creating a State Game and Fish Board of Control and Chief Game Wardens and State Fish Commissioner, Deputies and Wardens and Defining Their Duties and Jurisdiction, and for the Protection, Propagation, Preservation, Taking, Use and Transportation of Game, Fish, Wild Birds, Fur Bearing Animals, and Certain Harmless Birds and Animals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. OWNERSHIP IN STATE.] The ownership of and title to all wild birds, fish and fur bearing wild animals in the state of North Dakota, is hereby declared to be in the state, and no fish, wild birds, or wild animals which are protected by law shall be caught, taken or killed in any manner or at any time, or had in possession, except the person so catching, taking, killing or having in possession shall consent that the title of said fish, wild birds, or wild animals shall be and remain in the state of North Dakota for the purpose of regulating and controlling the use and disposition of the same after such catching, taking or killing. Any person catching, taking, killing or having in possession any wild birds or wild animals at any time, or in any manner shall be deemed to consent that the title to the same shall be and remain in the state for the purpose of regulating the use and disposition thereof, and such possession shall be deemed the consent of such person as aforesaid, whether said game or fish were taken within or without the state.

§ 2. DISTRICTS.] The state of North Dakota shall be divided into two districts, to be known as "Game District No. 1" and "Game District No. 2." Game District No. 1 shall consist of the following counties: Pembina, Walsh, Grand Forks, Nelson, Ramsey, Cavalier, Benson, Eddy, Towner, Wells, Pierce, Rolette, McLean, McHenry, Bottineau, Ward, Mountraille, Williams and McKenzie. Game District No. 2 shall consist of the following counties: Traill, Steele, Griggs, Foster, Cass, Barnes, Stutsman, Richland, Ransom, LaMoure, Sargent, Dickey, McIntosh, Logan, Emmons, Kidder, Oliver, Burleigh, Morton, Hettinger, Bowman, Billings, Stark, Dunn, Mercer and Adams.

§ 3. BOARD OF CONTROL. APPOINTMENT. TERMS. MEETINGS. COMPENSATION. RULES AND REGULATIONS.] A state board of control is hereby created, consisting of five members, to be appointed by the governor. Three members of such commission shall be appointed for a term of two years, commencing on the first day of April of the year 1909, and two members of such commission shall be appointed for a term of four years, commencing on the first day of April, 1909, and thereafter such appointment shall be made for a term of four years commencing at the expiration of such term. Vacancies arising from any cause shall be filled by the governor. Said commission shall hold its first meeting on the second Tuesday of the month succeeding its appointment and organize by electing one of said board as president, one of said board as vice-president, and one of said board as secretary. A quorum of said board shall consist of not less than three members. The state game and fish board of control after its organization may hold its meetings at any point in the state at such time and place as the president may designate, but there shall not be to exceed four regular meetings each year; provided, that the president of the board shall have power to call special meetings whenever in his judgment it becomes necessary. The members of said board shall receive as compensation for their services the sum of three dollars per day for each day in attending such meeting, and all expenses actually and necessarily incurred in traveling to and from such meeting, which sum shall be paid by the state treasurer out of the game and fish fund upon vouchers of the board duly certified by the president and secretary thereof. The board shall establish rules and regulations and employ the most efficient and practical means to carry out the provisions of this act. They shall require of the chief warden a monthly report in full, a copy of which shall be mailed to each member of said board, stating the names and numbers of employes, territory assigned (by counties), compensation paid, number of arrests, convictions and fines. Members shall serve without compensation except for necessary expenses to be paid upon an itemized statement thereof duly audited by said board.

§ 4. GENERAL POWERS. DUTIES.] Said board shall enforce the laws of this state, involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

1. The propagation and preservation of such variety of game and fish as it shall deem to be of public value.

2. The collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

3. The construction, control and management of all state fish hatcheries, including the control of ground owned or leased for such purposes.

4. The receiving from the United States commissioner of fisheries or other persons, and the gathering, purchase and distribution to the waters of this state of all fish spawn or fry.

5. The taking of fish from the public waters of the state for the propagation and stocking of other waters therein.

6. The seizure and disposition of all wild birds, wild animals and fish, either taken, killed, transported or possessed contrary to law, of all dogs, guns, seines, nets, boats, lights or other instrumentalities unlawfully used or held with intent to use, in pursuing, taking or attempting to take, concealing or disposing of the same, and for these purposes it is hereby authorized and empowered to make all such rules and regulations for the conduct of the business of said board as it may deem expedient.

§ 5. REPORTS AND RECORDS.] Said board shall, on or before December first of each even numbered year, submit to the governor a detailed report of its actions, including the amount of money received from all sources, and inventory of all birds, game, fish, guns, dogs, seines, nets and other property seized and sold, with the names of the purchasers, and the amount received, and an itemized statement of its disbursements. The books and vouchers of said board shall be subject to examination by the public examiner at all times.

§ 6. CHIEF GAME WARDEN.] The board shall appoint a chief game warden for each of the game districts mentioned in section two of this act who shall devote all his time to the discharge of his duties, and shall receive compensation therefor to be fixed by said board, not exceeding fifteen hundred dollars per year, and actual expenses necessarily incurred in the discharge of his official duties. He shall act as such chief game warden during the pleasure of the board, and be subject to its direction. When the board is not in session, he is hereby authorized to exercise in its name all the rights, powers and authority vested in said board. Before entering upon the discharge of his duties he shall give a bond to the state of North Dakota, with sureties or security, to be approved by the board, in the penal sum of five thousand dollars conditioned for the faithful accounting of all state property coming into his hands.

§ 7. FISH COMMISSIONER.] The board shall appoint a state fish commissioner, who shall devote all his time to the discharge of his duties, and shall receive compensation therefor to be fixed by said board, but such compensation shall not exceed twelve hundred dollars per annum and actual expenses necessarily incurred in the discharge of his duties. He shall act as such fish commissioner, and when the board is not in session he is hereby authorized to exercise in its name all the rights, powers and authority vested in said board relating to and pertaining to the propagation and distribution of fish.

§ 8. EMPLOYES.] The board may appoint and remove at pleasure a sufficient number of game wardens, other persons and office assistants as may be necessary to carry out the purposes of this chapter, and fix their periods of service and compensation to be paid from the game and fish commission fund:

§ 9. OTHER OFFICIALS. ATTORNEY.] The attorney general, state's attorneys, sheriffs, constables and other peace officers, are hereby required, and it is made their duty, to enforce the provisions of this chapter. Such attorneys shall appear for said board in all civil actions in which it or its wardens may be interested officially, and shall appear in the prosecution of criminal actions arising under this chapter.

§ 10. EXECUTION OF WRIT.] All members of the board of control and all wardens and deputies appointed by such board, shall have full power and authority to serve and execute all warrants and processes of law issued by the court in enforcing the provisions of this act, or any other law of this state relating to the preservation and propagation of game and fish, in the same manner as any constable or sheriff may serve and execute the same, and for the purpose of enforcing the provisions of this chapter they may call to their aid any sheriff, deputy sheriff, constable or police officer or any other person, and it shall be the duty of all sheriffs, deputy sheriffs, constables or police officers and other persons, when called upon, to enforce and aid in enforcing the provisions of this chapter. The chief warden, any member of the board of control and any deputy shall have the power to arrest without warrant any person or persons found in the act of violating any law enacted for the purpose of protecting or propagating game and fish.

§ 11. BONDS.] Each district game warden shall give bonds to be approved by the board and filed with the secretary of state, conditioned for the faithful discharge of their respective duties, to the amount of five hundred dollars. Special deputy game wardens and other persons employed by the board, shall give bonds when required.

§ 12. DUTIES.] It shall be the duty of the state district game and fish wardens to keep a complete and correct record of all his transactions, in a record book for that purpose, showing dates of appointment of deputies, names of persons violating the game and fish laws, date of arrest, amount of fines, and costs (separately) imposed, and the names of the justice or magistrate before whom the persons appeared. All such records shall be open to the public when requested, and the state district game and fish wardens shall make a full report of all matters of record to the game and fish board of control showing the number of hunting permits issued in his district, resident and non-resident, and showing the amount of fees for such permits and for the distribution of same, such report to be made annually on the first day of December of each year, and in said report to make such recommendations as in his judgment are necessary for the better protection, preservation and propagation of wild birds and wild animals, and fish, and the enforcement of laws governing the same.

§ 13. TERMS DEFINED. AGENCY NO EXCUSE.] The words "sell" and "sale" as used in this chapter shall be construed as meaning any

sale or offer to sell, or having in possession with intent to sell, use or dispose of the same contrary to law. The word "person" shall be deemed to include partnerships, associations and corporations, and no violation of any provision of this chapter shall be excused for the reason that the prohibited act was done as the agent or employe of another, nor that it was committed by or through an agent or employe of the person so charged. The word "possession" shall be deemed to include both actual and constructive possession, as well as the control of the article referred to. The terms "waters of this state" shall be held to include all the boundary waters of the state, and the provisions of this chapter shall be deemed to extend and be in force and effect over, upon and in all thereof. The terms "any part thereof" or "the parts thereof" whenever used in this chapter shall be deemed to include the hides, horns and hoofs of any animal so referred to, and the plumage and skin and every other part of any bird so referred to.

§ 14. INSPECTION OF HOTELS, ETC.] The members of the board of control and all game wardens, shall inspect from time to time hotels, restaurants, cold storage houses or plants and ice houses commonly used in storing meats, game or fish for private parties, including all buildings used for like purpose, for the purpose of determining whether game or fish are kept therein in violation of the provisions of this chapter. Any person in possession or control, or in charge of any hotel, restaurant, storage plant or building referred to, or any part thereof, who refuses or fails to permit any member of the game and fish board of control or any warden or deputy to enter any such building, or any part thereof, or any receptacle therein, for the purpose of making such inspection, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars or over fifty dollars and costs of prosecution, or imprisonment in the county jail for a term of not less than ten or over twenty days for the first offense, and upon conviction for a second offense, shall be punished by imprisonment in the county jail for a period of not less than twenty or over thirty days.

§ 15. CONTRABAND GAME. SEIZURE AND SEARCH.] Any bird, animal, fish, or any part thereof, caught, killed, shipped or had in possession or under control contrary to any of the provisions of this chapter is hereby declared to be contraband. The board of control, all game wardens, sheriffs and their deputies, constables and police officers, shall seize and take possession of any and all birds, animals, or fish, or any part thereof which have been caught, taken, killed or had in possession or under control, or shipped contrary to any provision of this chapter. Any court having jurisdiction may upon complaint showing probable cause for believing that any bird, animal, fish, or any part thereof, caught, taken, killed or had in possession or under control by any person, or shipped or transported contrary to the provisions of this chapter, is concealed or illegally

kept in any building, car or receptacle, shall issue a search warrant and cause a search to be made in any such place for any such birds, animals, fish or any parts thereof, and may cause any building, inclosure or car to be entered, and any apartment, chest, box, locker, crate, basket, package or any other receptacle whatever, to be broken, opened and the contents thereof examined. All such officers taking or seizing such birds, animals or fish, or any part thereof, shall at once report all the facts attending the same to the commission.

§ 16. CONTRABAND DEVICES.] All nets, seines, lanterns, snares, devices, contrivances and materials while in use, kept or had or maintained for the purpose of catching, taking or selling, or attracting or deceiving any bird, animal or fish contrary to any provision of this chapter within this state, or upon or in the boundary waters thereof, including fish houses, inclosures, or other shelter structures or appliances erected or maintained upon the ice or in any waters, or on the shore of any lake, pond, or stream, is hereby declared to be and is a public nuisance. The chief game wardens and all members of the board [of control], all district and special wardens, sheriffs and their deputies, constables and police officers shall, without warrant or process, take, seize, abate and destroy any and all of the same while being used, had or maintained for such purpose, and no liability shall be incurred thereby to any person.

§ 17. WITNESSES.] In any prosecution under the provisions of this chapter, the participant in the violation thereof may testify as a witness against any other person violating the same, without incriminating himself in so doing. The evidence so given shall not be used in any criminal proceedings for such violation.

§ 18. LIMITATIONS.] All prosecutions under this chapter shall be commenced within two years from the time the offense is committed.

§ 19. EXCHANGE SPECIMENS.] The board may secure, by purchase or otherwise, and exchange specimens of game birds, game animals or fish with the game commission or state game warden of other states for breeding purposes, and not otherwise, and may also grant permision under the seal of said board, to any accredited representative of any incorporated society of natural history, to collect for scientific purposes only, under such restrictions as the board may impose, nests, eggs, birds, animals or fish protected by this chapter. Such specimens shall not be sold or transferred nor removed from the state until inspected by the board.

§ 20. FISHWAYS] Any person owning, erecting, managing or controlling any dam or other obstruction across any river, creek or stream, within or forming the boundary line of this state, shall construct in connection with such dam, a durable and efficient fishway in such manner and of such shape and size as the board may direct. Such fishway shall be kept in good repair by the person so owning,

controlling, managing, operating or using such dam or obstruction. If any person fails to construct or keep in good repair durable and efficient fishways as herein provided, for the space of ten days after notice, the board may construct or repair the same, and the cost thereof may be recovered from the owner or any person managing, or being in control thereof, in a civil action brought in the name of the state of North Dakota. Any money so recovered shall be credited to the game and fish commission fund. All fishways heretofore or hereafter erected in any dam or obstruction across any of the streams in this state, shall at all times be under the supervision and control of the board. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

§ 21. SAWDUST DEPOSITS.] Any person who deposits any sawdust or other refuse in any streams or water wherein the commission has deposited fish fry, or may deposit any such fry, or where any brook trout naturally abound, shall be deemed guilty of a misdemeanor.

§ 22. DISPOSITION OF FINES.] All fines collected under any of the provisions of this chapter shall be paid into the county treasury of the proper county to be added to the state school fund.

§ 23. DISPOSITION OF OTHER MONEYS.] All moneys collected by the board upon licenses issued by it, by the sale of game seized and sold, and from all other sources except fines, shall be paid into the general fund of the state of North Dakota, to be credited to the game and fish commission fund, to be used for the purpose of enforcing the provisions of this act; provided, that any surplus money accumulating to the credit of the game and fish commission fund may be used for the propagation of fish and game birds.

§ 24. REWARDS.] The following rewards may be paid by the board out of any fund subject to its order, to any person or persons making complaint thereof upon the arrest and conviction of any person violating any of the provisions of this chapter, or other enactments involving deer or antelope, the sum of twenty-five dollars; any game bird or fish, ten dollars; provided, however, that this section shall not apply to any game warden regularly employed and receiving salary from the said board.

§ 25. DOMESTICATED GAME.] The board may issue permits to breed or domesticate any of the game birds or animals mentioned in this chapter. Application for such permits shall be made in writing to the board and shall contain the name and address of the applicant, description of the premises on which such birds or animals will be kept, number and kind of such birds and animals in possession at the time of making such application. The board thereupon may issue permits to the applicant to keep such birds or animals. Any person holding such permit shall before the fifteenth day of December of each year report the increase or decrease to the board from the number at the time of making application for the permit.

Any such animals or birds may be sold or shipped within or without the state upon receipt of written permission to do so from the board.

§ 26. NESTS AND EGGS.] No person shall at any time take or have in possession or under control, or needlessly break up or destroy, or in any manner interfere with any nests, or the eggs of any of the kinds of birds, the killing of which is at any or all times prohibited.

§ 27. MANNER OF TAKING.] No person shall at any time catch, take or kill any of the birds or animals mentioned in this chapter in any other manner than by shooting them with a gun held to the shoulder of the person discharging the same, except as herein otherwise specially provided.

§ 28. TRAPS, SNARES, LIGHTS, ETC.] No person shall at any time set, lay, prepare or have in possession any trap, snare, artificial light, net, bird lime, swivel gun or set gun or any contrivance whatever, for the purpose of catching, taking or killing any of the birds or game animals in this chapter mentioned, except that decoys and stationary blinds may be used in hunting wild geese, brant and ducks, and no person or combination of persons shall, either alone or in combination with or by arrangement or agreement with any other person or persons, use or cause to be used, any floating battery, electric, steam, gasoline or other boat or floating vessel for the purpose of raising or driving any game birds from their resting or feeding places in any waters of this state.

§ 29. SHOOTING AFTER DARK.] No person shall hunt, pursue, catch, shoot at, or in any way molest any of the game birds or animals mentioned in this chapter within the borders of the state, during the time elapsing between one-half hour after sunset and one-half hour before sunrise. For the purpose of enforcing this provision, it shall be understood that the time of sunrise and sunset shall be designated by the calendar.

§ 30. USE OF DOGS.] No person shall hunt, pursue, catch, take or kill deer or antelope with any dog or dogs. No person shall train or run any dog or dogs, owned or controlled by them, known as "bird dogs," including pointers, setters, droppers or spaniels, or allow same to run loose in fields, or upon lands in which game birds may be found, or apt to be frequented by game birds, between the first day of April and the fifteenth day of August (both inclusive), following of each year.

§ 31. ENTERING GROWING GRAIN.] No person shall at any time enter into any growing, standing, shocked grain or bunched flax not his own, with intent to take or kill any bird or animal, nor permit any dog with which he shall be hunting to do so for such purpose, without permission from the owner or person in charge thereof.

§ 32. GAME KILLED IN ANOTHER STATE.] No person shall at any time have in his possession or under his control within this

state, any bird, animal or fish, or any part thereof, which has been caught, taken or killed outside of this state at a time when it is unlawful to have in possession or under control such bird, animals or fish, or parts thereof, if caught, taken or killed in this state, or which have been unlawfully taken or killed outside this [state] or unlawfully shipped therefrom into this state.

§ 33. POSSESSION OF GAME AND FISH PRESUMPTION.] The possession or having under control by any person of any bird, animal or fish or any part thereof, the killing of which is at any time herein prohibited, shall be prima facie evidence that it was the property of this state at the time it was caught, taken or killed, in this state; also that such possession or having under control at any time, when the killing, taking or possession thereof is by this chapter declared to be unlawful, shall be prima facie evidence that such taking and killing occurred during the closed season, to disprove which it shall be necessary for the party in possession thereof to show that at the time it was caught, taken or killed outside, or within this state, that it was lawfully caught, taken or killed outside, or within this state, and that he was lawfully in possession thereof.

§ 34. SKINS.] Nothing in this chapter shall be construed as prohibiting the buying, shipping or having in possession at any time the skins of fur bearing animals killed within or without the state, or hides of moose, deer, caribou, or antelope killed within or without the state upon proof that the hide was taken at a time when such taking and killing was lawful.

§ 35. GAME BIRDS, SEASONS FOR KILLING.] No person shall hunt, take, kill, ship, convey or cause to be shipped or transported by common or private carrier, to any person either within or without the state, expose for sale, sell to any one, have in possession with intent to sell, or have in possession or under control at any time, any turtle dove, snipe, prairie chicken, pinnated, white breasted or sharp tailed grouse, quail, partridge, ruffed grouse, Chinese ringneck or English pheasant, Hungarian partridge, wild duck of any variety, wild goose of any variety, brant or any variety of aquatic fowl whatever, or any part thereof, except: First. That any turtle dove, snipe, prairie chicken, pinnated grouse, ruffed grouse, white breasted or sharp tailed grouse, woodcock, upland plover or golden plover may be killed and had in possession between the seventh day of September and the first day of November (both inclusive) following. Second. That wild duck of any variety, wild goose of any variety, brant or crane and swan may be killed and had in possession between the seventh day of September and the fifteenth day of December (both inclusive) following. Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars for each bird or more than twenty-five dollars and cost of prosecution, or by imprisonment in the county jail for not less than

twenty days or more than thirty days, or by both fine and imprisonment in the discretion of the court, for each and every bird killed or destroyed contrary to the provisions of this section.

§ 36. DEER, SEASON FOR KILLING.] No person shall hunt, catch, take, kill, ship, convey or cause to be shipped or transported by common carrier to any person, either within or without the state, or purchase, expose for sale, have in possession with intent to sell to any person, or have in possession or under control at any time any deer, or any part thereof, including the hides and horns, except as herein provided; provided, that two deer may be killed between November tenth and November thirtieth (both inclusive) of the same year by any one person; provided, further, that it shall be unlawful to hunt or kill any deer in the manner commonly known as driving in parties consisting of more than four persons. But no person shall kill or have in possession during said time, more than two such deer or parts thereof; and provided, further, that any person who is lawfully in possession of such deer, or any part thereof, may ship or cause the same to be shipped in the manner provided for by this chapter, but not otherwise. Any person violating any provison of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for each deer, and cost of prosecution, or by imprisonment in the county jail for not less than twenty days or more than thirty days, or by both such fine and imprisonment in the discretion of the court, for each and every deer killed or destroyed contrary to the provisions of this section.

§ 37. RESIDENTS' HUNTING LICENSE. SHIPMENT OF GAME.] Every resident of this state is prohibited from hunting, taking or killing any game bird or game animal unless he shall have first procured and have on his person a license therefor from the county auditor in the county in which he resides, which said license shall not be transferable; provided, however, that this does not apply to any resident of this state from hunting on lands owned or cultivated by him, or any member of his family, residing permanently with him, during the open season as provided for in this chapter. County auditors shall issue such hunting license upon payment of a license fee of one dollar, and the application for such license shall be made in writing upon application blanks furnished by the game and fish board of control. Said application must state full name and address of applicant, age, weight, height, color of hair and eyes, and the following statement be signed by applicant and witnessed by a resident freeholder of the county in which license is to be issued:

I am a bona-fide resident of.....county, North Dakota, and have been during the past six months.

Witness Signed

All applications received shall be kept on file by the county auditor, subject to inspection by the board and its deputies, at any time prior to December fifteenth of each year, at which time they shall be forwarded to the board, together with all unused licenses. Said license, when issued, shall describe the licensee, designate his place of residence, and have printed on it in large black figures the year for which issued and the words "not transferable." Such license shall expire on the fifteenth day of December following its issuance. Ten cents of the amount received for the issuance of the said license shall be retained by the county auditor as his fee, and the balance remitted to the state treasurer who shall credit the same to the game and fish commission fund, to be used in enforcing the provisions of this chapter. Any resident having procured a resident hunting license as required, and being lawfully in possession of any of the game birds or game animals mentioned in this chapter, may ship by common carrier to his address in the county where he resides not to exceed two days' bag limit of any of the game birds as herein provided for in this chapter, nor more than two deer or parts thereof, and any common carrier is hereby permitted to receive for shipment any such game birds or deer, when same is plainly marked with a suitable tag bearing name and address of licensee, and number of his hunting license, and when the same is not enclosed in any box, trunk, can, bag, or any receptacle that prevents easy inspection of contents.

§ 38. NON-RESIDENT LICENSE. SHIPMENT OF GAME.] Every person not a resident of this state is prohibited from hunting, taking or killing any game bird or game animal, unless he shall have first procured a license therefor from the game and fish board of control, which said license shall not be transferable. Said board shall issue to any non-resident a license to hunt game birds and game animals during the open season, subject to the limitations provided for in this chapter, upon the payment of twenty-five dollars, which license shall expire on the fifteenth day of December following its issuance. Said license shall describe the licensee, designate his place of residence, and have printed on it in large black letters the year for which issued, and the words "non-resident license," "not transferable." Any non-resident having procured such license may carry with him on leaving this state not to exceed twenty either prairie chicken, turtle dove, crane, swan, grouse of any variety, or twenty of the same combined, and fifty either snipe, plover, wild duck, goose or brant, or fifty of the same combined, nor more than two deer or parts thereof, and any common carrier is hereby permitted to carry any such game birds or deer, or parts thereof, when same is accompanied and carried on same train or conveyance by the person who is legally in possession of the same; provided, that the same is plainly marked with a suitable tag, bearing name and address of licensee and number of his non-resident license, and that it

is not concealed in any box, trunk, bag, can or any receptacle that prevents easy inspection of contents.

§ 39. HUNTING WITHOUT LICENSE.] Any person, either a resident or non-resident of this state, who shall hunt, take or kill any of the game birds or animals in this state, without having first procured a license therefor as provided in this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days for each and every offense.

§ 40. RETAINING GAME. PERMISSION.] Any resident of this state who is lawfully in possession of any of the game birds or deer which have been killed at a time and in a manner permitted by the provisions of this chapter, and who is desirous of retaining possession of the same for his own use for a longer period than five days after the close of the open season, shall before the end of the first five days after the close of the open season, apply to the game and fish board of control, for permission to do so. Such application shall state number of such birds or deer and designate the place in which they are to be kept. The board shall grant such permission, if satisfied that applicant is retaining same for his own use and not for any purpose contrary to the provisions of this chapter.

§ 41. MINK. MUSKRAT.] No person shall take, catch or kill any mink or muskrat between the fifteenth day of April and the fifteenth day of November (both inclusive) following; provided, that when any of the animals mentioned in this section are doing damage to, or destroying property, the person whose property is being damaged or destroyed may kill them at any time.

§ 42. HARMLESS BIRDS. GAME BIRDS DEFINED.] No person shall catch, take, ship or cause to be shipped to any person within or without the state, purchase, offer or expose for sale, sell to anyone, have in possession with intent to sell, or have in possession or under control at any time, living or dead, any wild bird other than a game bird, nor any part thereof, irrespective of whether said wild bird was captured or killed within or without the state, and for the purposes of this chapter the following only shall be considered game birds: The anatidae, commonly known as swan, geese, brant, river and sea ducks; the limicolae, commonly known as plover, snipe, woodcock; the gallinae, commonly known as grouse, prairie chickens, pheasants, partridges and quail; provided, that blackbirds, crows, English sparrows, sharp-shinned hawks, Cooper hawks and great-horned owls may be killed and had in possession at any time, but nothing herein contained shall be construed to prevent the keeping and sale of imported song birds as domestic pets.

§ 43. ATTEMPTED VIOLATION.] Any person traveling in any manner in any part of this state off the public highway, outside of the im-

mediate bounds of the inhabited parts of any village, town or city in possession of any kind of a shotgun, with or without a dog or dogs commonly used or kept for the purpose of use in hunting any game birds mentioned in this chapter, from the first day of July to the sixth day of September (both inclusive) each year, shall be presumed to have violated or attempted to so violate the provisions of this chapter as to unlawful hunting, shooting or taking of game birds as mentioned in this chapter, the hunting, taking or shooting of which is prohibited during said time, and proof of the possession of said shotgun, with or without dog or dogs, during said time and in such place, shall be prima facie evidence of guilt of such person to so violate, or attempt to violate the provisions of this chapter as to hunting, shooting or taking such game birds. The use of traps, snares and all other devices used to take game birds as defined in this chapter is hereby prohibited and subjects the person using the same to all penalties prescribed in this section for hunting, shooting, snaring, trapping or taking any of the game birds, and the fact that any traps, snares or other devices used for the purpose of trapping, snaring or taking game birds, are found in the possession of, or upon the premises of any person, shall be prima facie evidence of the guilt, violation or attempted violation by such person of the provisions of this chapter. Any person convicted of violation or attempted violation of any provision of this section shall be punished not only by the fine herein prescribed, but also by forfeiture of any gun or guns, dog or dogs, in his possession while so offending, and any court having jurisdiction may, upon due proof, adjudge the same forfeited, and may order any dog or dogs, gun or guns so used to be sold by the game and fish board of control, and the proceeds of such sale shall be placed to the credit of the game and [fish] commission fund. Any person convicted of the violation of any of the provisions of this section shall be fined not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or both fine and imprisonment at the discretion of the court.

§ 44. FISH MAY BE TAKEN, WHEN.] No person shall catch, take, kill or have in possession or under control for any purpose whatever any of the fish hereinafter mentioned, within the periods herein limited, to-wit: Any variety of trout or land-locked salmon between the first day of October and the first day of May (both inclusive) following. Any black, gray or Oswego bass between the fifteenth day of October and the first day of June (both inclusive) following. Any variety of pike, crappies or perch between the fifteenth day of October and the first day of May (both inclusive) following.

§ 45. POWERS AND DUTIES.] The state fish commissioner shall have charge of all state fish hatcheries and appurtenances. He shall examine all state waters, and whenever suitable waters are found

arrange to plant, stock or deposit such fish as are available. He shall co-operate with the United States commissioners of fisheries, make application, receive, apportion and deposit such fish spawn or fry received, throughout the public waters of this state. He shall co-operate with and assist clubs and individuals in the stocking of the lakes and streams of this state with fish. He shall, with the consent of the game and fish board of control, remove or take by any means from any of the public waters of this state containing a surplus of fish any reasonable quantity for the stocking of other public waters of this state, or to be used for hatching or propagating purposes, or for exchange with other states for equal numbers of other species, but in no case shall the numbers so taken be so great as to perceptibly deplete such lakes or streams. The state game and fish board of control shall have no power to authorize any individual, club, society or person to remove or take from any of the public waters of this state for exchange, propagation or scientific purposes any fish excepting only under the personal supervision of the state fish commissioner or some one appointed by him. The state fish commissioner may take or cause to be taken at any time by any means from any of the lakes in this state any suckers, red horse or carp.

§ 46. MANNER OF TAKING.] No person shall catch, kill or destroy in any manner than by angling for them with a hook and line held in the hand or attached to a rod so held, nor with more than one line, nor with more than one hook, or artificial lure attached thereto, and no person shall have in his possession any of the above mentioned fish caught, taken or killed in any waters of this state except as provided in this chapter; provided, that pickerel, suckers, red horse, carp and bullheads may be taken with a spear without limit at any time, but no artificial light shall be used in the taking of said fish at any time, and that the use of set lines is permitted in the Missouri, Mouse and Red rivers; provided, further, that in the Missouri and Mouse rivers pound nets, seines or dip nets may be used, except that it shall be unlawful to use any such net within a distance of one thousand feet from the mouth of any stream emptying into the Missouri river.

§ 47. FISHING NEAR FISHWAYS.] No person shall catch, take or kill any fish in any lake or stream within four hundred feet of any fishway, or have in his possession or under his control any fish so caught, taken or killed.

§ 48. USE OF DRUGS, DYNAMITE, TRAPS, ETC.] No person shall have in possession, lay, set, use or prepare any drug, poison, lime, medicated bait, fish berries, dynamite or other explosive or any other deleterious substance whatever, or lay, stretch, or place any tip-up snare, fish trap, set or trot line or any net, wire, string, rope, or cable of any sort in any of the waters of this state with intent thereby or therewith to catch, take or kill any fish; provided, that a min-

now seine not exceeding twenty feet in length may be used for taking minnows for bait from the first day of May to the fifteenth of October, following, and that a net may be used in the Missouri and Mouse rivers as provided for in section 42.

§ 49. FISH HOUSES.] No person shall erect, have or maintain on the ice in any waters of this state, except Missouri, Mouse and Red rivers, any fish house, structure, inclosure or shelter whatever to protect the person of the occupant while engaged in fishing through the ice.

§ 50. SALE OF FISH.] No person shall have in possession for sale or with intent to sell, expose or offer for sale, or sell to any person, at any time, any variety of trout or black, grey or Oswego bass, or any variety of pike, crappies, perch or land-locked salmon which have been caught within the borders of the state.

§ 51. SIZE OF FISH TO BE TAKEN.] No person shall at any time catch, take or kill, or have in possession, or under control any black, grey or Oswego bass, trout of any variety, land-locked salmon or pike that are less than eight inches in length, measurement in each case to be made from the tip of the snout to the fork of the tail. Any person catching such fish shall at once return the same to the water from which they are taken with as little injury as possible.

§ 52. NUMBER OF FISH TO BE TAKEN.] No person shall in any one day catch, take, kill or destroy to exceed fifteen each black, grey or Oswego bass, trout of any variety, land-locked salmon, pike, perch or crappies, or fifteen of the same combined, or have in possession at any time to exceed fifty each or all of the same combined. Any person violating any provision of this section shall upon conviction be punished by a fine of not less than ten dollars nor more than twenty-five dollars for each and every offense and cost of prosecution, or by imprisonment in the county jail for not less than ten nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court, for each and every fish so killed or destroyed, contrary to the provisions of this section.

§ 53. PLANTED FISH PROTECTED.] All planted fish or fish eggs placed in the public waters of this state for the purpose of propagating, breeding or growth shall be, and are hereby protected for a period of five years from the time of such planting.

§ 54. FISH SCREENS.] The board may cause to be placed in lakes having an outlet into the waters outside the borders of this state a fish screen of such size and construction as to prevent the escape of fish into the waters outside the border of this state; provided, that such screen shall in no way obstruct or interfere with the natural flow of water in such outlet.

§ 55. BAG LIMIT OF GAME BIRDS.] No person shall in any one day take, catch, kill or destroy to exceed ten each prairie chicken or grouse of any variety, turtle dove, crane or swan, or ten of the same combined, or have in possession at any time to exceed twenty each

or all of the same combined; nor more than twenty-five each wild duck of any variety, wild goose or brant of any variety, woodcock, snipe or plover of any variety, or twenty-five of the same combined; or have in possession at any time to exceed fifty each, or all of the same combined. Any person violating any provision of this section shall, upon conviction, be punished by a fine of not less than ten dollars, nor more than twenty-five dollars for each and every bird, and cost of prosecution, or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court, for each and every bird so killed or destroyed, or had in possession contrary to the provisions of this section.

§ 56. ANTELOPE, BEAVER AND OTTER PROTECTED.] No person shall hunt, shoot at, catch, kill, trap or in any way destroy any antelope, beaver or otter within the boundary limits of the state of North Dakota before January 1st, 1920. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars and cost of prosecution, or by imprisonment in the county jail for not less than three months nor more than six months, or by both fine and imprisonment in the discretion of the court.

§ 57. SALE OF GAME BY COMMISSION.] The game and fish commission is hereby authorized to sell to residents of this state, at the highest market price obtainable therefor, all furs, fish, game animals or game birds now or which may hereafter come into its possession. The proceeds thereof shall be turned into the state treasury and credited to the game and fish commission fund. A record of such sales, including the name of the purchaser and the price paid, shall be kept by the board. Said board shall before selling tag the same in a manner to be determined by it.

§ 58. RESISTING BOARD OF CONTROL OR ITS WARDENS.] Whoever shall resist or obstruct the board of control or any member thereof, or any warden or other officer of this state in the discharge of his duties under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than fifty nor more than one hundred dollars and cost of prosecution, or by imprisonment in the county jail for not less than twenty nor more than thirty days for each and every offense.

§ 59. GENERAL PENALTY.] Any person who violates any provision of this chapter for which penalty has not been heretofore specifically provided, shall be guilty of a misdemeanor, and upon conviction be punished by a fine of not less than ten dollars nor more than fifty dollars and cost of prosecution, or by imprisonment in the county jail for not less than twenty nor more than thirty days.

§ 60. PROFESSIONAL DOG TRAINERS.] Professional dog trainers are prohibited from running and training dogs within this state between the first day of May and the fifteenth day of August.

§ 61. REPEAL.] All laws heretofore enacted by the legislative assembly of this state relating to the subjects of this act are hereby repealed.

§ 62. EMERGENCY.] An emergency exists in this that there is nothing in the present laws prohibiting shooting ducks and geese in the spring, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1909.

CHAPTER 129.

[H. B. No. 213—Johnson, of Rolette]

FISH HATCHERY.

AN ACT Creating, Establishing and Locating a Fish Hatchery and Fish Cultural Station at Fish Lake, Birchwood Park, in Rolette County, North Dakota, and Making an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ESTABLISHMENT OF FISH HATCHERY.] There is hereby created and established a fish hatchery and fish cultural station to be located at Fish lake, Birchwood Park, Rolette county, North Dakota, on the southeast quarter of section three, and the northeast quarter of section ten, all in township one hundred and sixty-three, north of range seventy-one west, for the propagation of fish to stock the lakes and streams of this state; provided, that this fish hatchery shall not be established nor its work undertaken unless a suitable tract of land be donated free of charge by warranty deed to the state of North Dakota.

§ 2. APPROPRIATION.] There is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of three thousand dollars for the building and establishing of this fish hatchery and two thousand dollars for excavating, piping, and connections for rearing, retention and propagating ponds, and for no other purpose.

§ 3. EMERGENCY.] Whereas, an emergency exists in this that it is for the best interests of the state to make the product of this fish hatchery available as soon as possible, therefore this act shall be in force from and after its passage and approval.

Approved March 20, 1909.

GAMING

CHAPTER 130.

[S. B. No. 229—Koffel]

POOL ROOMS.

AN ACT to Amend Chapter 128 of the Laws of 1907, Being An Amendment of Section 8983 of the Revised Codes of North Dakota, 1905, Relating to Minors Not Allowed in Certain Public Places, and Prescribing Certain Penalties for the Violation Thereof..

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 128 of the laws of 1907, being an amendment of section 8983 of the revised codes of North Dakota, 1905, be and the same is hereby amended and re-enacted to read as follows:

§ 8983. MINORS NOT ALLOWED IN CERTAIN PUBLIC PLACES. PENALTY.] It shall be unlawful for any owner or keeper of any pool or billiard hall, or any bowling alley or any temperance saloon, or any place under any name whatever where the games of pool, billiards, bowling or cards are played, to allow any person under the age of eighteen years or any person attending a local high school to either play any of the games mentioned or to be employed in said places or be allowed to visit said places, unless accompanied by parent or guardian. Any person found guilty of violating this section shall be punished by a fine of not less than five dollars or more than fifty dollars, or imprisonment in the county jail not to exceed thirty days, or both such fine and imprisonment.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1909.

GARNISHMENT

CHAPTER 131.

[H. B. No. 355—Kneeland]

GARNISHMENT PROCEEDINGS.

AN ACT to Amend Section 8405 of the Revised Codes of 1905, Relating to Garnishment Proceedings in Justice Courts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8405 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 8405. WHEN COURT MAY RENDER JUDGMENT.] If any garnishee having been duly summoned, unless he shall have demanded his witness fees and the same shall not have been tendered, shall fail to appear and answer or to file his affidavit as required by the garnishee summons, the court may render judgment against him as provided in section 6977; provided, however, that a plaintiff electing to take issue upon the affidavit of the garnishee must at the time fixed for appearance and answer, file with the justice a written notice to that effect, whereupon said justice shall, unless the parties to said issue agree to at once go to trial thereon, adjourn said garnishee action for not less than three nor more than ten days, and issue a notice to said garnishee of the time and place to which said action is adjourned, and that said issue will then and there be tried, which said notice shall be served upon said garnishee in the same manner as required for service of summons in justice court, at which adjourned time proceeding may be as provided in section 6979. If a defendant desire to defend the garnishment proceedings upon the ground that the indebtedness or property involved is exempt from execution, or any other ground contemplated in section 6981, such defense may be interposed at the time fixed for the garnishee's appearance; provided, that if said defense is on the ground that such property or indebtedness is exempt from execution, said defendant shall, within three days after the service of the garnishment summons upon him, have filed in the justice court in which said action is pending a schedule of his personal property made and sworn to as provided in section 7119. The justice may also order an inter-pleader as provided in section 6983, and adjourn said action for hearing thereof to a date not less than three, nor more than ten days after the date fixed for appearance and answer in said

garnishee action and issue notice to the claimant described in said section 6983, of the time and place of said adjournment, and that he shall then and there defend his claim, if any, to the money or property held in garnishment, which said notice shall be served upon said claimant in the same manner as required for the service of summons in justice court.

Approved March 12, 1909.

CHAPTER 132.

[H. B. No. 100—Chatfield]

GARNISHMENT SUMMONS.

AN ACT to Amend Section 8403 of the 1905 Revised Codes of North Dakota, Relating to Service of Garnishment Summons.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8403 of the 1905 revised codes of North Dakota is amended to read as follows:

§ 8403. HOW SUMMONS SHALL BE SERVED.] The garnishment summons and annexed affidavit shall be served as provided in sections 6971 and 6972, except that the service upon the garnishee must be made not less than seven nor more than fifteen days before the time specified in the garnishment summons for his appearance before the justice, and the service upon the defendant or his attorney must be made within four days after service upon the garnishee; provided, that when a second summons is issued and served by publication, or personally outside of the state, it shall not be necessary to serve the garnishment summons or affidavit upon the defendant or his attorney. It shall not be necessary for the plaintiff to serve upon the garnishee any copy of the complaint in the action. When the garnishment summons is served upon the garnishee he may demand his travelling fees and fee for one day's attendance, and if the same be not paid or tendered to him he shall not be obliged to appear and answer or file any affidavit or be otherwise liable as a garnishee in the action. Such fees shall be the same as witness' fees in justice's court.

Approved March 11, 1909.

GOOD ROADS

CHAPTER 133.

[S. B. No. 341—Welch]

GOOD ROADS EXPERIMENT STATION.

AN ACT Authorizing the Board of Trustees of Public Property of North Dakota to Operate a Good Road Experimental Station at Bismarck, North Dakota; Authorizing the Employment of the Inmates of the North Dakota State Penitentiary Upon the Construction and Maintenance of Experimental Roads; Authorizing the Board of Trustees of Public Property to Accept Federal Aid and Private Contributions in the Construction of Experimental Roads and Authorizing the State Engineer to Supervise the Construction and Maintenance of All Roads and Designating Where Experimental Roads Shall Be Built.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ESTABLISHED.] For the purpose of ascertaining the most practical and economical construction and maintenance of public roads and highways in this state, there is hereby established at the city of Bismarck, a good road experimental station.

§ 2. MANAGEMENT.] The board of trustees of public property shall have general supervision of all roads and highways constructed under the provisions of this act.

§ 3. STATE ENGINEER, DUTIES OF.] It shall be the duty of the state engineer to furnish the plans and specifications and to establish the line and grade and to have supervision over the construction and maintenance of all roads and highways constructed under the provisions of this act.

§ 4. WARDEN, DUTIES OF.] It shall be the duty of the warden of the state penitentiary, upon the requisition of the board of trustees of public property, to furnish convict labor, not otherwise employed, to be used in the construction and maintenance of all roads and highways provided for in this act.

§ 5. WHERE TO BUILD.] The said board of trustees of public property and the state engineer may lay out, construct and improve the roads and highways from the capitol building to the United States military reservation of Fort Lincoln and from the state penitentiary to the Missouri river, along or upon any public road or highway between such points.

§ 6. CANNOT PURCHASE RIGHT OF WAY.] No expenditure of any money shall at any time be appropriated or used by said board

of trustees of public property for the purpose of procuring the right-of-way for any of the roads or highways herein mentioned: provided, that the said board of trustees of public property may accept and use any money donated by the United States, or any private individual for the purpose of aiding in the construction, maintenance and improvement of the roads and highways herein mentioned.

§ 7. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1909.

GRAIN GRADING

CHAPTER 134.

[S. B. No. 345—Talcott—*Joint Resolution*].

APPOINTMENT OF EXPERTS.

WHEREAS, North Dakota representation upon the board of appeals of the grain inspection department of the state of Minnesota would be of distinct benefit and advantage to the state of North Dakota, and,

WHEREAS, Through the representations and personal efforts of the special committee appointed by this legislative assembly, an agreement has been reached whereby two residents of North Dakota, who are experts in the matter of grain grading and inspection, will be permitted to sit with the Minnesota boards of appeal at Minneapolis and Duluth and have access to the books and records of such boards and personal knowledge of the transactions of such boards, and,

WHEREAS, Such representation will give to the people of the state of North Dakota a better knowledge of the conditions prevailing in the matter of grain inspection and better opportunity to present their claims in behalf of the producers of this state, now therefore,

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

§ 1. GOVERNOR MAY APPOINT. DUTIES. SALARY. APPROPRIATION.] The governor is hereby authorized to appoint two residents of North Dakota who shall be expert in the matter of raising and grading and knowledge of grain to sit with the Minnesota board of appeals at Minneapolis and Duluth, such appointments to be made under such legislation as may be passed by the legislative assembly of the state of Minnesota, the salaries of such expert representatives to be three thousand dollars per year, they to serve during the entire year and to make a report to the governor to be transmitted to the legislative assembly at the opening of the session of 1911. The expense incurred under this resolution is hereby authorized and declared to be proper and in the interest of the people of this state.

Approved March 16, 1909.

GRAIN, ETC.

CHAPTER 135.

[H. B. No. 305—Hanley]

GRAIN GRADES.

AN ACT Authorizing and Requiring the Board of Railway Commissioners to Establish Grades on Grain and to Receive Reports from the Expert Representatives at Terminal Points of Duluth and Minneapolis, for the Benefit of Shippers of Grain in This State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. RAILROAD COMMISSIONERS ESTABLISH GRADES FOR GRAIN.] The board of railway commissioners of the state of North Dakota shall, before the first day of September of each year, establish grades of all kinds of grain bought or handled by any elevator or warehouse in this state, which shall be known as "North Dakota Grades," which shall conform to the grades established at the terminal points, and the grades so established shall be printed and published in the manner required by section 2243 of the revised codes of 1905; provided, that no such publication shall be necessary except when changes are made in such grades, and then the changes so made only shall be published. And said board of railroad commissioners shall have supervision of the grading, weighing and shipping of all grain purchased or handled by public warehousemen in North Dakota, and all public warehousemen shall grade all grain purchased or handled by them in conformity with the established "North Dakota Grades" as herein provided. Any person aggrieved at the weights or grades given by any warehouseman may appeal to the board of railroad commissioners, and it is hereby made the duty of said board to without delay inquire into said grievance and adjust the same in accordance with established standards.

§ 2. AGENTS AT MINNESOTA TERMINALS. REPORT TO COMMISSIONERS.] It shall be the duty of the expert representatives at the terminal points of Minneapolis and Duluth appointed by law to sit with the Minnesota board of grain appeals, and to act as representatives of the grain shippers of North Dakota and look after their interests in all matters relating to the inspection, weighing, grading and docking of grain shipped from North Dakota, so far as the same may not be inconsistent with the laws of Minnesota or the rules and regulations of the railroad and warehouse commission of Minnesota. Said agents shall report all complaints and

grievances to the board of railroad commissioners of this state, which shall receive all such reports and shall use all proper means to correct and remedy the same.

Approved March 12, 1909.

CHAPTER 136.

[S. B. No. 40—Pierce]

INQUIRY INTO CARRYING CHARGES OF GRAIN.

A JOINT RESOLUTION Providing for the Making of Inquiry Relating to the Carrying Charges Upon Grain in Bulk From Points in the State of North Dakota to Terminal Markets in Minnesota and Wisconsin, and for the Bringing About of Such Reforms or Reductions in Such Carrying Charges as the Circumstances Shall Warrant.

WHEREAS, The development of the grain growing industry in the state of North Dakota during the past decade has been immensely greater than that of any other industry, and the volume of business furnished by it to the railroads engaged in the transportation of such grain to terminal markets has increased correspondingly during that time, and,

WHEREAS, The development or increased production of all other commodities or products of the range, the mines, the forests and the sea has been rightly followed by a corresponding decrease in the cost of placing such commodities in the hands of the consumers thereof; and,

WHEREAS, Such increased production of grains has not been followed by any corresponding decrease in freight rates or carrying charges, and it is the sense of this body that the grain industry of North Dakota is now bearing more than its just burden of the expense of the operation of the railways now engaged in carrying the same; and,

WHEREAS, The carrying of such grain from the place of production to the so-called terminal markets is interstate commerce, the legislative body of this state is powerless to fix rates therefor, and relief can only be had through the interstate commerce commission; therefore,

Be It Resolved by the Legislative Assembly of the State of North Dakota:

§ 1. PROCEEDING AUTHORIZED.] That the governor and attorney general of the state of North Dakota be, and they are hereby directed, authorized and required, to take such steps and to institute such proceedings before the inter-state commerce commission as will ascertain and determine whether or not the freight rates now in force for the carrying of grain in bulk from points in North Dakota to Minneapolis and Duluth, in Minnesota, and Superior and West Superior in Wisconsin, are just and adequate or excessive, and if excessive, to secure the putting into effect of just, adequate and reasonable rates therefor.

§ 2. APPROPRIATION.] The expense of such proceedings, not to exceed two thousand dollars in the aggregate, shall be audited and allowed in the same manner as other expenses of the government and paid out of the general fund.

§ 3. EMERGENCY.] Inasmuch as it is important that the result of such investigation and of such proceedings should be available at the earliest possible date, therefore this act shall take effect immediately upon its passage and approval.

Approved March 11, 1909.

HEALTH

CHAPTER 137.

[S. B., No. 99—Halliday]

STATE TUBERCULOSIS SANITARIUM.

AN ACT to Provide for the Location and Temporary Organization and Management of a State Sanitarium for Persons Afflicted With Tuberculosis, and Making an Appropriation for the Purchase of Land for Said Sanitarium and Authorizing Improvements on Said Grounds.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ESTABLISHED.] There is hereby established a state sanitarium for the care and scientific treatment of persons afflicted with tuberculosis, to be known as "The North Dakota Tuberculosis Sanitarium."

§ 2. TEMPORARY BOARD NAMED.] The temporary government of said sanitarium for the purpose of its location, the purchase of a site for the same, not to exceed one hundred and sixty acres, and for the purpose of improving the grounds hereby authorized to be purchased, such as fencing, clearing, planting of trees and shrubberies, and other improvements of like character, is hereby vested in a board to consist of the governor, Dr. G. F. Ruediger, of the public health laboratory of the state university, Dr. J. L. Grassick, superintendent of the state board of health, Dr. Fannie Dunn Quain, of Bismarck, and C. J. Lord, of Cando.

§ 3. ORGANIZATION.] Within a reasonable time after the taking effect of this act the said board hereby created shall effect a permanent organization by the election of the usual officers of boards of similar character, which organization shall be accomplished at a meeting to be held at the seat of government on call of the governor and by giving ten days' notice thereof. Meetings thereafter shall be held at such points as in the opinion of a majority of said board shall be most convenient. Said board shall receive as compensation for their services the sum of three dollars per day and their actual and necessary expenses while engaged in the

work provided for herein, to be paid as other expenses for boards of trustees of state institutions; provided, that no member of said board receiving a salary from the state shall receive anything save his actual and necessary expenses.

§ 4. APPROPRIATION.] For the purpose of carrying out the provisions of this act there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of ten thousand dollars and the state auditor is hereby authorized to draw his warrants for such sums as may be required from time to time to carry out the provisions of this act, upon vouchers approved by said board and further approved by the governor as now required by law.

Approved March 4, 1909.

HIGHWAYS

CHAPTER 138.

[H. B. No. 167—Thoreson]

CATTLE-WAYS.

AN ACT to Permit the Construction of Cattle-ways Under Public Highways; Regulating the Construction of Same and Prescribing Duties of Road Supervisors in Relation Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CATTLE-WAYS UNDER HIGHWAYS.] Upon application to the board of county commissioners of any county or the board of township supervisors of any organized township by any person for permission to construct a cattle-way under any public road, it may grant the same upon condition that such way shall not interfere with the public travel; that the grade of the road over the cattle-way shall not exceed one foot in ten feet; and that it shall not obstruct watering at any running stream. The applicant shall construct the same at his own expense and be responsible for all damages that may arise from its construction or from the same not being kept in repair.

§ 2. FAILURE TO KEEP IN REPAIR.] If the person on whose land such cattle-way is constructed fails to keep the same in repair, it shall be the duty of the road supervisors to make all necessary repairs, and charge the same to the owner of the land upon which such way is constructed, and, upon his refusal to pay, the county or township board in which such cattle-way is situated shall re-

cover the same in an action brought in the name of such board and it shall be the duty of the state's attorney to prosecute such action, which money, when collected, shall be expended in improving or repairing the public roads in the road district where such cattle-way is constructed.

§ 3. BOARD MAY PRESCRIBE REGULATIONS.] The board granting such application may prescribe such further regulations and specifications in the construction of such ways, as it may deem proper, not inconsistent with the provisions of sections one and two of this act.

Approved March 13, 1909.

HISTORICAL SOCIETY

CHAPTER 139.

[S. B. No. 76—Crane]

ANNUAL APPROPRIATION.

AN ACT to Amend Chapter 133 of the Laws of North Dakota of 1907, Relating to Appropriations to the State Historical Society of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 133 of the laws of North Dakota of 1907, is amended so as to read as follows:

§ 1. APPROPRIATION.] There is hereby appropriated annually out of any money in the hands of the state treasurer, not otherwise appropriated, for the state historical society of North Dakota, eight hundred dollars for field officer's work between the dates of March 15 and November 15, in each year, and one thousand eight hundred dollars for salary of the curator of museum.

§ 2. EMERGENCY.] An emergency exists in this, that there are inadequate funds to pay the curator, therefore this act shall be in force from and after its passage and approval.

Approved March 20, 1909.

HOLIDAYS

CHAPTER 140.

[S. B. No. 154—Steel, of Stutsman]

HOLIDAYS ESTABLISHED.

AN ACT to Amend Section 6710 of the Revised Codes of 1905, Relating to Holidays.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 6710 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 6710. HOLIDAYS.] Holidays are every Sunday; the first day of January, which is new year's day; the twelfth day of February, which is the birthday of Abraham Lincoln; the twenty-second day of February, which is the birthday of George Washington; the fourth day of July, which is the anniversary of the declaration of independence; the twenty-fifth day of December, which is Christmas day; the thirtieth day of May, which is memorial day; the first Monday in September, which is labor day; every day on which an election is held throughout the state, and every day appointed by the president of the United States or by the governor of this state for a public fast, thanksgiving or holiday.

Approved March 13, 1909.

HOTELS

CHAPTER 141.

[H. B. No. 63—Sorlie]

HOTEL INSPECTION.

AN ACT to Amend Sections 1, 2, 3, 4, 6 and 14 of Chapter 135 of the Laws of 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 1. HOTEL DEFINED.] Every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel or public lodging house, or place where sleeping accommodations are furnished for hire to transient guests whether with or without meals, shall for the purpose of this act, be deemed to be a hotel, and wherever the word hotel shall occur in this act, it shall be construed to mean every such structure as is described in this section.

§ 2. AMENDMENT.] Section 2 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 2. FIRE ESCAPES, HOW CONSTRUCTED.] Every hotel that is more than two stories high shall be provided with a hall on each floor extending from one outside wall to the other, and at each end of such hall shall be equipped with an iron fire escape on the outside of the building, connecting on each floor above the first, with at least two openings which shall be well fastened and secured, with landings not less than six feet in length, and three in width, guarded by an iron railing not less than three feet in height. Such landings shall be connected by iron stairs not less than two feet wide and with steps of not less than six inches tread, and protected by a well secured hand rail on both sides and reaching to within ten feet of the ground, with a drop ladder twelve inches wide reaching from the lower platform to the ground. Such fire escapes shall be sufficient if a perpendicular iron ladder shall be used instead of the stairs, provided such iron ladder is placed at the extreme outside of the platforms and at least two feet away from the wall of the building, and provided said ladder is equipped with round iron rounds not more than fifteen inches apart. The way of egress to such fire escape shall at all times be kept free and clear of all obstruction of any and every nature. There shall be posted and maintained in a conspicuous place in each hall and in each guest's room, except the halls and rooms on the ground floor of such hotel, a printed notice in characters not less than two inches high, calling attention to and directing the way to such fire escape. A red light shall be maintained in buildings over two stories high on each floor at the end of the hall, directly in front of the fire escape.

§ 3. AMENDMENT.] Section 3 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 3. FIRE EXTINGUISHERS AND STANDPIPES.] Each and every hotel shall be provided with at least one chemical fire extinguisher, approved by the national board of underwriters, for every twenty-five hundred square feet or less of floor area, which such extinguisher or extinguishers shall be placed in a convenient location in a public hallway outside of the sleeping rooms, and shall always be in condition for use; or in lieu thereof, such hotel shall be equipped with not less than one and one-fourth inch standpipe with hose con-

nections and hose of sufficient length to reach both ends of hall where standpipe is located, always attached in such hallway, which standpipe shall be supplied with a sufficient pressure of water.

§ 4. AMENDMENT.] Section 4 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 4. PROVISIONS FOR BUILDINGS NOT OVER TWO STORIES HIGH.] Every hotel which is not over two stories in height and which is not provided with such fire escape as is described in section two hereof, shall provide in every bedroom or sleeping apartment on the second floor, a manila rope at least five-eighths of an inch in diameter and of sufficient length to reach the ground, with knots or loops of not more than fifteen inches apart, and of sufficient strength to sustain a weight and strain of at least five hundred pounds. Such rope shall be securely fastened to the joists or studding of the building as near the window as practicable, and shall be kept coiled in plain sight at all times, nor shall such rope be covered by curtains or other obstructions. Every such hotel shall provide and maintain in a conspicuous place in every bedroom or sleeping apartment above the ground, a printed notice calling attention to such rope and giving directions for its use.

§ 5. AMENDMENT.] Section 6 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 6. SANITARY PROVISIONS.] Every hotel shall be well drained, constructed and plumbed according to established sanitary principles; shall be kept clean and in a sanitary condition and free from effluvia arising from any sewer, drain, privy or other source within control of the owner, manager, agent or other person in charge; shall be provided with water closets or privies properly screened, for the separate use of males and females, which water closets or privies shall be disinfected as often as may be necessary to keep them at all times in a sanitary condition, and shall be heated in winter. All bedrooms shall be kept free from vermin and the bedding in use shall be clean and sufficient in quantity and quality; all sheets shall be at least eight feet in length; each guest shall be furnished with two towels; in case bedrooms are carpeted the carpet or carpets thereon shall be taken up and thoroughly cleansed at least once each year; no rusted tin or iron vessel or utensil shall be used in cooking food and all food stuffs shall be kept in a clean and suitable place, free from dampness and contact with dirty water; the floors, closets, cupboards and walls of all kitchens shall at all times be kept free from dirt and no dust or greases shall be allowed to collect thereon; in all hotels where fifty cents or more per night is charged for lodging the sheets and pillow cases shall be changed after the departure of each guest.

§ 6. AMENDMENT.] Section 14 of chapter 135 of the laws of 1907 is amended so as to read as follows:

§ 14. INSPECTION FEE.] Every hotel containing less than ten sleeping rooms for the accommodation of the public shall pay an

inspection fee of two dollars and fifty cents when inspected under the provisions of this act, and every hotel containing more than ten sleeping rooms and less than twenty sleeping rooms for the accommodation of the public shall pay an inspection fee of five dollars when inspected under the provisions of this act, and every hotel containing twenty or more sleeping rooms, and less than fifty sleeping rooms for the accommodation of the public shall pay an inspection fee of ten dollars, and every hotel containing fifty or more sleeping rooms shall pay an inspection fee of twenty dollars, when inspected under the terms of this act. Such fees shall be collected by the inspector annually at the time of inspection, and if not paid on demand the inspector may sue therefor in his own name for the use of the state, and in such case the court shall allow and enter as a part of the judgment against the defendant, all the costs of such action, including a fee not exceeding twenty-five dollars for any attorney necessarily employed in such action by the inspector.

§ 7. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 19, 1909.

IMMIGRATION

CHAPTER 142.

[S. B. No. 83—Koffel]

APPROPRIATION FOR PROMOTION OF IMMIGRATION.

AN ACT Making an Appropriation for Carrying Into Effect Provisions of Law Relating to the Duties of the Commissioner of Agriculture and Labor.

WHEREAS, The agricultural department during the past four years has extensively and profitably advertised the resources of this state and has placed in a favorable manner the many excellent advantages North Dakota offers to the settlers; and,

WHEREAS, The said agricultural department has through the many exhibits it has made of North Dakota products at the different state and county fairs held in eastern states, and by the distribution of literature containing a description of the state succeeded in inducing many thousands of people to locate within its borders; and,

WHEREAS, North Dakota has been one of the first of the northwestern states to inaugurate the plan of exploiting and advertising its resources, and has taken a front rank in securing an intelligent and progressive class of new settlers and attracted the attention of all parts of the world; and,

WHEREAS, Adjoining and other western states have realized the value of the advertising done and the exploitations made by North Dakota, are

appropriating for these purposes immense sums of money to stem the tide of immigration to this state and induce eastern settlers to locate within the confines of their respective states, as well as to prevent their people from moving to North Dakota; and,

WHEREAS, Canada appropriates over a million dollars annually to induce citizens of the United States to become inhabitants of that dominion and is sending its emissaries to all parts of this country to distribute broadcast literature portraying what it has to offer the people who desire to change their location; therefore,

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the hands of the treasurer, not otherwise appropriated, the sum of thirty thousand dollars, or so much thereof as may be necessary, to carry into effect all laws relating to the publication of the advantages offered to settlers and investors for lands in the state of North Dakota; provided, that the money hereby appropriated shall be used only for the publication of such literature and the circulation thereof and the making of such exhibits of the resources of the state in such eastern and southern localities only as may, in the judgment of the commissioner of agriculture and labor, seem advisable.

§ 2. EMERGENCY.] An emergency exists in that there are now no funds in the hands of the treasurer available for carrying out the provisions provided in this act, therefore this act shall take effect and be in force from and after its passage and approval.

Became a law March 20, 1909, without the signature of the governor.

INSANITY

CHAPTER 143.

[S. B. No. 106—Movius]

COMMISSIONERS OF INSANITY.

AN ACT to Amend Section 1889 of the Revised Codes of 1905 of the State of North Dakota, Relating to Commissioners of Insanity.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1889 of the revised codes of 1905 be and the same is hereby amended and re-enacted to read as follows:

§ 1889. APPOINTMENT OF COMMISSIONERS OF INSANITY.] In each organized county of this state there shall be a board of com-

missioners consisting of three persons, to be styled "Commissioners of Insanity," two of whom shall constitute a quorum. The county judge shall be a member of such board and its chairman. The other two members shall be appointed by the board of county commissioners, one of whom shall be a reputable practicing physician, and the other a reputable practicing attorney; and such appointment shall be made from persons residing as near as may be to the county seat. Such commissioners shall be appointed for the term of two years and until their successors are appointed and qualified. The appointment of successors can be made at any time within three months prior to the expiration of the term of the incumbents. In case of the temporary absence of such commissioners or their inability to act, the county judge shall call to his aid a reputable practicing physician or attorney, who, after qualifying as in other cases, may act in the same capacity. In case of the temporary absence from the county of the county judge or his inability to act, the state's attorney shall act in his place and stead, as chairman of said board, and shall have full authority to issue subpoenas and issue commitments, and do all necessary acts as said chairman. He shall take the same oath as that required of the commissioners in section 1890 of the revised codes of 1905. The records in such cases must show the fact of all absences.

§ 2. EMERGENCY.] An emergency exists in that under the present law there is no one to take the place of the county judge in such cases, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 26, 1909.

INSURANCE

CHAPTER 144.

[H. B. No. 262—Baker, of Cass]

LIMIT OF INSURANCE RISKS.

AN ACT Repealing Section 4465 of the Revised Codes of 1905 Relating to the Limit of Risks of Fire Insurance Companies in Any One City or Town.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL.] Section 4465 of the revised codes of 1905, relating to the limit of risks of fire insurance companies in any one city or town, be and the same is hereby repealed.

Approved March 20, 1909.

CHAPTER 145.

[S. B. No. 274—Duis]

SURPLUS OF LIFE INSURANCE COMPANY.

AN ACT to Amend Chapter 151 of the Laws of 1907, An Act to Require an Annual Apportionment and Accounting of Surplus of Life Insurance Companies as to Policies Heretofore Issued. Said Chapter is Amended to Read as Follows:

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SURPLUS APPORTIONED ANNUALLY.] Every life insurance company doing business in this state conducted on the mutual plan or in which policy holders are entitled to share in the profits or surplus shall, on all policies of life insurance heretofore issued, under the conditions of which the distribution of surplus is deferred to a fixed or specified time and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall apportion to such policies as a class the amount of surplus so ascertained and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose whatsoever other than for the express purpose for which the same was accumulated.

§ 2. EXCEPTION.] This act shall not apply to industrial policies.

§ 3. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

§ 4. EMERGENCY.] Whereas, it is important that the provisions of this act shall take effect as soon as possible, an emergency exists and this act shall take effect from and after its passage and publication.

Approved March 15, 1909.

CHAPTER 146.

[H. B. No. 5—Burns]

COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Section 4494 of the Revised Codes of the State of North Dakota, for 1905, Relating to the Time of the Election of Directors of County Mutual Fire Insurance Companies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 4494. DIRECTORS, WHEN CHOSEN.] The directors of each company so formed shall be chosen by a vote at the annual election there-

of, which shall be held on the last Thursday in June of each year, and every member shall have one vote, but no person shall vote by proxy at such election; provided, that in any company organized under the provisions of this article, whose policies of insurance shall not run for a longer period than one year, all persons holding policies of insurance therein during the year immediately preceding the annual election, shall be considered as members of said company and shall be entitled to vote at such election.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall be in force and effect from and after its passage and approval.

Approved March 16, 1909.

CHAPTER 147.

[H. B. No. 257—Baker, of Cass]

INSURANCE COMPANY'S CAPITAL STOCK.

AN ACT to Amend Section 4429 of the Revised Codes of 1905, Relating to the Capital Stock of Insurance Companies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4429 of the revised codes of 1905 is amended to read as follows:

§ 4429. CAPITAL STOCK REQUIRED.] No stock company shall be incorporated under this chapter unless it has a capital stock of at least one hundred thousand dollars, twenty-five per cent of which must be paid in previous to the issuance of any policy and the residue within twelve months from the time of filing the articles of incorporation. No fire, cyclone, tornado, hail, marine, life or accident insurance company of any other state, territory or nation shall do business in this state unless it has a paid up capital stock of at least one hundred thousand dollars in available cash assets, over and above all liabilities for losses reported, expenses, taxes and reinsurance of all outstanding risks.

§ 2. EMERGENCY.] An emergency exists in this, that insurance companies organized under the laws of this state having a capital stock of one hundred thousand dollars cannot, on account of retaliatory laws, enter other states for the transaction of business; therefore, this act shall be in force and in effect on and after its passage and approval.

Approved March 12, 1909.

CHAPTER 148.

[S. B. No. 226—Gunderson]

INSURANCE OF PUBLIC BUILDINGS.

AN ACT to Amend and Re-enact Sections 1287, 1288 and 1289 of the Revised Codes of North Dakota, for the Year 1905, Relating to Insurance of Public Buildings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1287 of the revised codes of 1905 for North Dakota is hereby amended and re-enacted to read as follows:

§ 1287. PROPERTY TO BE INSURED. GOVERNOR TO APPROVE COMPANY.] It shall be the duty of the boards of trustees of the respective institutions to cause to be insured in such insurance companies as may be approved by the governor for the benefit of the state the public buildings and contents under their control respectively, for an amount not more than eighty per cent of their value, and for that purpose they are authorized to expend such a sum as may be necessary, and upon presenting vouchers therefor to the state auditor it shall be his duty to draw a warrant upon the state treasurer in payment of the sum so expended.

§ 2. AMENDMENT.] Section 1288 of the revised codes of 1905 for North Dakota is hereby amended and re-enacted to read as follows:

§ 1288. DUTY OF GOVERNOR.] It shall be the duty of the governor to cause to be insured all other public buildings and their contents belonging to the state, for the benefit of the state, at not more than eighty per cent of their value and for that purpose the state auditor shall draw his warrant upon the state treasurer in payment of the premiums for such insurance.

§ 3. AMENDMENT.] Section 1289 of the revised codes of 1905 for North Dakota is hereby amended and re-enacted to read as follows:

§ 1289. IN EVENT OF LOSS.] In the event of a loss occuring under any policy upon any public building or the contents insured under the provisions of the last two sections, the money received from the insurance shall be used and expended by the governor or board of trustees, as the case may be, in the erection or repair of the building upon the site of the one injured or destroyed and replacing the contents, and such building shall be occupied and used for the same purposes as the one damaged or destroyed. Policies issued under the provisions of the two preceding sections shall run in the name of the state and shall be for a term of three or five years.

Approved March 16, 1909.

CHAPTER 149.

[H. B. No. 200—Honey]

TERM INSURANCE.

AN ACT to Amend Section 4, Chapter 140, of the 1907 Session Laws of the State of North Dakota, Relating to Insurance.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 4, of chapter 140, of the 1907 session laws of the state of North Dakota, is hereby amended to read as follows:

§ 4. TERM INSURANCE.] Policies issued on the standard forms prescribed in section two may provide for not more than one year preliminary term insurance by incorporation therein of the following clause immediately preceding the "change of beneficiary" clause: "The first year's insurance under this policy is term insurance." If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty payment preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on the twenty payment preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period equal to the difference between the value at the end of such period of such twenty payment preliminary term policy and the full reserve at such time of such a limited payment or endowment policy.

Approved March 16, 1909.

CHAPTER 150.

[S. B. No. 246—Rice]

DOMESTIC LIFE INSURANCE COMPANIES

AN ACT to Require Domestic Life Insurance Companies to Make a Deposit of Securities With the Insurance Commissioner.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ANNUAL STATEMENT.] The president or vice president and secretary or actuary or a majority of the directors of each company organized under the laws of this state shall annually, by the first

Monday in February, prepare under oath and file in the office of the commissioner of insurance a statement of its affairs for the year terminating on the thirty-first day of December, preceding, showing:

1. The name of the company and where located.
2. The names of its officers.
3. The amount of capital, if a stock company.
4. The amount of capital paid in, if a stock company.
5. The value of real estate owned by the company.
6. The amount of cash on hand.
7. The amount of cash deposited in banks, giving the name of the bank or banks.
8. The amount of cash in the hands of agents and in the course of transmission.
9. The amount of bonds of the United States, and all other bonds and securities, giving names and amounts, with the par and market value of each kind.
10. The amount of loans secured by first mortgage on real estate and where such real estate is situated.
11. The amount of all other bonds, loans, how secured, and the rate of interest.
12. The amount of premium notes and their value on policies in force, if a mutual company.
13. The amount of notes given for unpaid stock, and their value in detail, if a stock company.
14. The amount of assessments unpaid on stock or premium notes.
15. The amount of interest due and unpaid.
16. The amount of all other securities.
17. The amount of losses due and unpaid.
18. The amount of losses adjusted but not due.
19. The amount of losses unadjusted.
20. The amount of claims for losses resisted.
21. The amount of money borrowed and evidences thereof.
22. The amount of dividends unpaid on stock.
23. The amount of dividends unpaid on policies.
24. The amount required to safely reinsure all outstanding risks.
25. The amount of all other claims against the company.
26. The amount of net cash premiums received.
27. The amount of notes received for premiums.
28. The amount of interest received from all sources.
29. The amount of moneys received from all other sources.
30. The amount paid for losses.
31. The amount of dividends paid to policy holders, and the amount to stockholders, if a stock company.
32. The amount of commissions and salaries paid to agents.
33. The amount paid to officers for salaries and other compensation.

34. The amount paid for taxes.
35. The amount of all other payments and expenditures.
36. The greatest amount insured on any one life.
37. The amount deposited in other states or territories as security for policy holders therein, stating the amount in each state or territory.
38. The amount of premiums received in this state during the year.
39. The amount paid for losses in this state during the year.
40. The whole number of policies issued during the year, with the amount of insurance effected thereby, and total amount of risk.
41. All other items of information necessary to enable the commissioner of insurance to correctly estimate the cash value of policies or to judge of the correctness of the valuation thereof.

§ 2. COMMISSIONER ASCERTAINS VALUE OF POLICIES. SECURITIES TO BE DEPOSITED.] As soon as practicable after the filing of such statement the insurance commissioner shall ascertain the net cash value of every policy in force upon the basis of the American table of mortality and four and one-half per cent interest, or actuaries combined experience table of mortality and four per cent interest, in all companies organized under the laws of this state. The company may make such valuation and make and file the same with such annual statement, and it shall be received by the insurance commissioner upon satisfactory proof of its correctness. The net cash value of all policies in force in any such company being ascertained, the insurance commissioner shall notify it of the amount, and within thirty days thereafter, the officers thereof shall deposit with the insurance commissioner the amount of the ascertained value in the securities specified in chapter 156 of the session laws of 1907; provided, however, that no stock company organized under the laws of this state shall be required to make a deposit of such securities in an amount exceeding one hundred thousand dollars; and when securities in that amount shall have been deposited then such insurance company may, and the insurance commissioner shall accept, in lieu of further deposit, a detailed, verified statement setting forth a list of the items of security held by such insurance company with sufficient particularity; and such securities so specified in such list, although retained by such insurance company, shall be kept separate and distinct from its other securities and shall be held as a deposit for the policy holders of said company under the provisions of this section. The insurance commissioner may at any time make a personal examination of the books, papers, securities and business of any such life insurance company or authorize any other suitable person to make the same, and he or the person so authorized may examine under oath any officer or agent of the company, or others, relative to its business and management. If upon such examination the insurance commissioner is of the

opinion that the company is insolvent, or that its condition is such as to render a further continuance of its business hazardous, then the insurance commissioner may require such insurance company to forthwith deposit in his office all of such securities so listed and specified in said list, and not deposited; provided, however, that nothing therein contained shall be construed as preventing or prohibiting any domestic life insurance company from depositing such securities in an amount to exceed the cash value of its policies.

§ 3. CERTIFICATE OF AUTHORITY.] On receipt of such deposit and statement and such detailed list of securities provided for in the preceding section, all of which shall be renewed annually, by the first Monday in February, the insurance commissioner shall issue a certificate to the effect that such insurance company does business under the compulsory reserve deposit law of the state of North Dakota, and maintains, in accordance with section two of said law, in the office of the insurance commissioner of the state of North Dakota, a deposit of an amount in excess of the net cash value of all outstanding policies in stipulated and highclass securities, deposited for the protection of the policy holders of said company, which certificate shall expire on the thirty-first day of March of the ensuing year. Such certificate shall be renewed annually upon a renewal of the deposit or statement provided for under the preceding sections, and upon compliance with the conditions above required. The insurance commissioner shall receive the sum of five dollars for issuing such certificate; provided, that a copy of such certificate may be attached to any policy of insurance hereafter or heretofore issued by any life insurance company organized under the laws of this state, upon its compliance with the provisions of this act.

§ 4. ON DEFAULT SECURITIES VEST IN POLICY HOLDERS.] The securities of a defaulting or insolvent company or a company against which proceedings are pending for dissolution, on deposit shall vest in the state for the benefit of the policies on which such deposit is made or were made, and the proceeds of the same shall, by order of the court upon final hearing be divided among the holders thereof in the proportion of the last annual valuation of the same, or at any time be applied to the purchase of reinsurance for their benefit.

§ 5. SECURITIES MAY BE EXCHANGED.] Companies shall have the right at any time to change the securities on deposit by substituting a like amount of the character required in the first instance. If the annual valuation of the policies in force shows them to be less than the amount of the security deposited, then the company may withdraw such excess, but twenty-five thousand dollars must always remain on deposit.

§ 6. DIVIDENDS ON SECURITIES PROPERTY OF COMPANY.] Companies having on deposit with the insurance commissioner bonds or other securities may collect the dividends or interest thereon, de-

livering to their authorized agents the coupons or other evidence of interest as the same become due, but if any company fails to deposit additional securities when and as called for by the insurance commissioner, or pending any proceedings to close up or enjoin it, the insurance commissioner shall collect such dividends or interest and add the same to such securities.

§ 7. EXCEPTION TO ACT.] None of the provisions of this act shall apply to fraternal beneficiary associations.

§ 8. EMERGENCY.] Whereas, an emergency exists in this, that there is now no provision of law providing for the deposit of securities by life insurance companies organized under the laws of this state, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1909.

INSTRUMENTS LEGALIZED

CHAPTER 151.

[S. B. No. 308—Plain]

LEGALIZING CERTAIN ACKNOWLEDGMENTS.

AN ACT to Legalize the Execution and Acknowledgment of Certain Deeds, Mortgages and Other Instruments in Writing, and the Record Thereof, and Making the Same or Certified Copies Thereof, Admissible in Evidence.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. EXECUTION, ACKNOWLEDGMENT, FILING AND RECORDING LEGALIZED.] The execution, acknowledgment, filing and recording of all deeds, mortgages and other instruments in writing, affecting the title to real property in this state, in good faith made, taken or certified to prior to the first day of January, 1909, and which have been filed or recorded in the proper counties of this state, be and the same are hereby declared to be legal and valid for all purposes, anything in the laws of the territory of Dakota or the state of North Dakota, or of any other state, territory or country at the time of such execution, acknowledgment, witnessing, filing or recording, to the contrary notwithstanding.

§ 2. ACTS OF EXECUTORS, ADMINISTRATORS, DEPUTIES, OFFICERS OR ATTORNEYS IN FACT LEGALIZED.] The acts of all properly appointed and constituted executors, administrators, officers of corporation, deputy public officials and attorneys in fact, done in good faith, in the execution and acknowledgment of such instru-

ments, are hereby declared to be legal and valid for all purposes, notwithstanding the fact that such executor, administrator, officer, deputy officer or attorney in fact may not have signed the same in the form provided by law in force at that time, or that the same was not sealed or stamped as required by laws in force at the time of such execution, and notwithstanding the fact that the certificate of acknowledgment thereon may not be in the form required or sealed as required by any laws in force at the time of making the same.

§ 3. ACKNOWLEDGMENTS LEGALIZED.] The acts of all notaries public or other officers, done in good faith in taking or certifying to the acknowledgments of such instruments, whether such officers were qualified or otherwise by law at the time to do so or not, are hereby declared legal and valid for all purposes.

§ 4. GOOD FAITH PRESUMED.] Good faith shall be presumed on the part of all persons and officers in the execution, acknowledgment, filing and recording of such instruments, and it shall be prima facie presumed that such officer acted within the scope of his authority.

Approved March 15, 1909.

IRRIGATION

CHAPTER 152.

[S. B. No. 188—Overson]

REGULATING USE OF WATER.

AN ACT Authorizing the State Engineer to Grant Permits for the Appropriation of Flood Waters of Draws, Coulees or Streams and Water Courses, Which for the Greater Part of the Year Flow Less Than One-third of One Cubic Foot Per Second.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WATER MAY BE APPROPRIATED.] Any person, association or corporation who may have or hold any possession, right or title to any agricultural lands within the limits of this state who desires to direct the flood waters of any draw, coulee, stream or water course, having a flow of not to exceed one-third of one cubic foot of water per second during the greater part of the year, which crosses or from which can be irrigated any parcel of land to which said person, association or corporation may have or hold any possession, right or title, for irrigation or stock purposes, may build or construct dams across any such draw, coulee, stream or water course

or divert the water therefrom by ditches, flumes or otherwise and such person, association or corporation shall have the right of way through and over any tract or piece of land for the purpose of conveying said water by means of ditches, pipes, flumes or otherwise. Such right of way shall in all cases be so located as to do the least damage to public or private property, consistent with proper and economical engineering construction; providing, that such rights shall be acquired in the manner provided by law for taking of private property for public use.

§ 2. PROCEDURE.] Any person, association or corporation wishing to avail themselves of any of the rights hereinbefore mentioned shall file a location certificate with the state engineer, which certificate shall be published and proof of publication thereof filed in accordance with the statutes concerning publication of notice to appropriate water for irrigation or other purposes. Such certificate shall state:

First: The number of acre feet claimed.

Second: The purpose for which it is claimed and place of intended use.

Third: The place of diversion, together with the name and description of the stream, draw or coulee from which the water is to be taken.

Fourth: The date of the filing of the location certificate with the state engineer as hereinafter referred to.

Fifth: The names of the owners or claimants to and the description of the land upon which are to be located any dams over or through which shall pass any ditches, pipes, or flumes used in conveying such water.

Sixth: A notice that any adverse claimant to the water to be appropriated shall file objection to the granting of said water right with the state engineer within thirty days from the date of the last publication of said certificate.

§ 3. STATE ENGINEER APPROVES. RIGHTS OF CLAIMANT.] If no objections shall have been filed within thirty days after the expiration of the last publication of said certificate, the state engineer shall indorse his approval on the application, which, after recording in the office of the register of deeds in the county in which said land is situated, shall thereupon become a permit to appropriate water, providing that the permit so granted shall not interfere with any existing vested water rights. As soon as the state engineer approves of the application to appropriate said water, he shall immediately notify such applicant that a permit has been granted and within sixty days after the receipt of such permit from the state engineer the appropriator shall proceed to build and construct such dams or to dig such ditches as may be necessary for the purpose of holding or directing such waters, and shall proceed with due diligence to direct the same for beneficial purposes. In case objections shall

have been filed to the use of said waters by the appropriator by any person or persons, the laws governing the appropriation of water for larger streams in this state, as provided by chapter 37 of the code of civil procedure of the revised codes of North Dakota for 1905, shall govern in determining the rights of the claimants to said waters.

§ 4. AMOUNT ALLOWED. "ACRE FOOT" DEFINED.] The amount of water allowed to any person, association or corporation under this act shall not be in excess of two acre feet per acre for any one irrigation season, and in no case more than can be beneficially used. (An acre foot under this act shall be construed to mean the amount of water required to cover one acre of land one foot deep.)

§ 5. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force upon its passage and approval.

Approved March 13, 1909.

LABOR

CHAPTER 153.

[H. B. No. 207—Skulason]

REGULATING CHILD LABOR.

AN ACT to Regulate the Employment of Child Labor and to Prescribe Penalties for Violations of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO EMPLOY CHILD UNDER FOURTEEN YEARS.] No child under fourteen years of age shall be employed, permitted or suffered to work in or in connection with any mine, factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session.

§ 2. EMPLOYMENT OF CHILD UNDER SIXTEEN YEARS.] No child between fourteen and sixteen years of age shall be employed, permitted or suffered to work in any mine, factory, workshop or mercantile establishment unless the person or corporation employing him procures and keeps on file, and accessible to the superin-

tendent of schools of the city or village, if one is employed, otherwise, to the clerk of the school board or board of education, an employment certificate as hereinafter prescribed, and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the building in which such child is employed. On termination of the employment of a child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The superintendent of schools or clerk of the school board or board of education, as the case may be, may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work and whose employment certificate is not then filed as required by this act, that such employer shall either furnish him within ten days evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The superintendent of schools of the city or village or clerk of the school board or board of education may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer shall fail to produce and deliver to the superintendent of schools of the city or village or the clerk of the school board or board of education, as the case may be, within ten days after such demand, such evidence of age herein required by him and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this act that such child is under sixteen years of age and is unlawfully employed.

§ 3. WHO AUTHORIZED TO ISSUE EMPLOYMENT CERTIFICATE.] The superintendent of schools of the city or village, if one is employed, and if not, then the clerk of the school board or board of education, is hereby authorized to issue an employment certificate in writing, such certificate to be issued upon the evidence prescribed in section four of this act; provided, that no employment certificate shall be issued for any child then in or about to enter his own employment or the employment of a firm or corporation of which he is a member, officer or employe.

§ 4. EMPLOYMENT CERTIFICATE, ON WHAT ISSUED.] The person authorized to issue employment certificate shall not issue such certificate until he has received, examined, approved, and filed the following papers duly executed:

1. The school record of such child properly filled out and signed as provided in this act.

2. A passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child. A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, shall be conclusive evidence of the age of such child.

3. The affidavit of the parent or guardian or custodian of a child, which shall be required, however, only in case such last mentioned transcript of the certificate of birth be not produced and filed, showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath, and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued.

§ 5. CONTENTS OF CERTIFICATE.] Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

§ 6. SCHOOL RECORD, WHAT TO CONTAIN.] The school record required by this act shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and twenty days during the school year previous to his arriving at the age of fourteen years or during the year previous to applying for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the age and residence of the child as shown on the records of the school and the name of its parent, guardian or custodian.

§ 7. HOURS OF LABOR.] No persons under the age of sixteen years shall be employed or suffered or permitted to work at any gainful occupation more than sixty hours in any one week, nor more than eight hours in any one day; or before the hour of seven o'clock in the morning or after the hour of seven o'clock in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the superintendent of schools of the city or village, or the clerk of the school board or board of education, and the employment of any minor for longer times in any day so stated shall be deemed a violation of this section.

§ 8. PEACE OFFICERS TO INSPECT PLACES OF WORK.] Peace officers may visit mines, factories, workshops and mercantile establishments in their several towns and cities and ascertain whether any minors are employed therein contrary to the provisions of this act; and it shall be their duty to report any cases of such illegal employment to the school board or board of education. Such officer may require that the employment certificates and lists provided for in this act of minors employed in such factories, mines, workshops or mercantile establishments shall be produced for their inspection. Complaints for offenses under this act may be made by such peace officer or by any other person cognizant of the facts.

§ 9. EMPLOYMENTS.] No child under the age of sixteen years shall be employed at sewing belts, or to assist in sewing belts, in any capacity whatever; nor shall any child adjust any belt to any machinery; they shall not oil or assist in oiling, wiping or cleaning machinery; they shall not operate or assist in operating circular or band saws, wood-shapers, wood-joiners, planers, sandpaper or wood polishing machinery, emery or polishing wheels used for polishing metal, wood-turning or boring machinery, stamping machines in sheet metal and tinware manufacturing, stamping machines in washer and nut factories, operating corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating any steam boiler, steam machinery, or other steam generating apparatus, or as pin boys in any bowling alleys; they shall not operate or assist in operating dough brakes, or cracker machinery of any description; wire or iron straightening machinery; nor shall they operate or assist in operating rolling mill machinery, punches or shears, washing, grinding or mixing mill or calender rolls in rubber manufacturing; nor shall they operate or assist in operating laundry machinery; nor shall children be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacture of paints, colors, or white lead; nor shall they be employed in any

capacity whatever in operating or assisting to operate any passenger or freight elevator; nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes, or any other employment that may be considered dangerous to their lives or limbs, or where their health may be injured or morals depraved; nor in any theatre, concert hall, or place of amusement wherein intoxicating liquors are sold; nor shall females under sixteen years of age be employed in any capacity where such employment compels them to remain standing constantly.

§ 10. PENALTY FOR VIOLATION OF THIS ACT.] Each owner, superintendent, manager or overseer of any mine, factory, workshop or mercantile establishment, and any other person who shall employ any child contrary to the provisions of this act or who shall in any manner violate the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense in a sum not less than twenty dollars nor more than fifty dollars and costs. Each person authorized to sign a certificate as prescribed in the preceding section who certifies to any material false statement therein shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty dollars nor more than fifty dollars and costs.

§ 11. PROSECUTION, HOW BROUGHT.] Prosecutions under this act shall be brought in the name of the state of North Dakota before any court of competent jurisdiction, and the fines collected shall be paid over to the county treasurer and by him credited to the general fund of the state.

§ 12. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1909.

LAW STUDENTS

CHAPTER 154.

[S. B. No. 101—Koffel]

QUALIFICATIONS OF LAW STUDENTS.

AN ACT to Amend and Re-enact Section 496 of the Revised Codes of North Dakota of 1905, Relating to Qualifications of Applicants for Admission to the Bar of the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 496 of the revised codes of North Dakota of 1905 is amended and re-enacted to read as follows:

§ 496. QUALIFICATIONS OF APPLICANTS.] Applicants for admision to practice as attorneys and counselors at law must be residents of this state, at least twenty-one years of age, of good moral character, and must have actually and in good faith pursued a regular course of study of the law for at least three full years, either in the office of a member of the bar of this state residing therein, and in regular practice, or with and under the immediate direction of a judge of the supreme or district court of this state, or in some reputable law school in the United States, or partly in such office and partly in such law school; but in computing such period of study the school year of any such law school, consisting of not less than thirty-five weeks, exclusive of vacation, shall be considered equivalent to one full year.

§ 2. EXEMPTION FROM PROVISIONS.] This act shall not apply to those students who have already in a bona-fide manner entered upon the study of law either in a reputable law school or in the office of an attorney residing and located in the state.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act, and especially section 496 of the revised codes of North Dakota for 1905, are hereby repealed.

Approved March 5, 1909.

LIBRARIES

CHAPTER 155.

[H. B. No. 296—Skulason]

FREE PUBLIC LIBRARIES.

AN ACT to Amend and Re-enact Article 10, of Chapter 32, Section 2972, of the Political Code of 1905, Relating to Free Public Libraries.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 2972. PUBLIC LIBRARIES, HOW ESTABLISHED. LIBRARY FUND, HOW CREATED.] The city council of each city, and each village or township board of every village or township shall have the power to establish and maintain a public library and reading room, and for such purposes may annually levy and cause to be collected as other taxes are collected, a tax not exceeding four mills on each dollar of the taxable property of such city, village or township, to constitute the library fund, which fund shall be kept separate and apart from the other money of the city, village or township, by the treasurer thereof, and the same shall be used exclusively for

such purpose; provided, that no library shall be so established without first receiving the approval of the majority of the electors of such city, village or township, voting on such question at any general election at which it may be submitted to a vote.

§ 2973. BOARD OF DIRECTORS. APPOINTMENT.] For the government of such library and reading room there shall be a board of five directors appointed from the citizens of such city, village or township, of both sexes, who shall be appointed by the board of education or school board of such city or village, or, where there is no incorporated city or village, by the board of supervisors of such township; and there shall be one member of such board of education or school board or board of supervisors appointed as one of the directors of such library and reading room. Such directors shall hold their office for three years from the first day of July in the year of their appointment and until their successors are appointed, but upon their first appointment they shall divide themselves at their first meeting by lot into three classes, and one of such directors shall hold office for one year and two for two years and the remaining two for three years, and thereafter there shall be appointed in each year the requisite number to fill the vacancies caused by the expiration of the terms of those going out of office in such year. All vacancies shall be immediately reported by the board of directors, to the board of education, school board, or board of supervisors and filled by such board of education, school board or board of supervisors, and if for an unexpired term, for the residue of the term only. No compensation whatever shall be paid or allowed any director in such official capacity.

§ 2974. BOARD OF DIRECTORS. DUTIES. POWERS.] Said directors shall immediately after their appointment meet and organize by electing from their number a president and secretary. They shall make and adopt such by-laws, rules and regulations relating to the duties of officers and for the management of the library and reading room as may be expedient, not inconsistent with this article. They shall have the exclusive control of the expenditures of all moneys collected for or contributed to the library fund, and the supervision, care and custody of the library property, rooms or buildings constructed, leased or set apart for that purpose, and such money shall be drawn from the treasury by the proper officers upon vouchers of the board of directors without being otherwise audited. They may, with the approval of the board of education or school board or board of township supervisors aforesaid, without which no lease, purchase or contract therefor shall be valid, build, lease or purchase an appropriate building and purchase a site therefor, not, however, employing in such purchase or building more than one-half of the income in any one year.

§ 2975. REGULATIONS GOVERNING USE OF LIBRARY.] Every library and reading room established under this article shall be forev-

er free for the use of the inhabitants of the city, village or township where located, always subject to such reasonable rules and regulations as the board of directors may deem necessary to adopt and publish to render the use of said library and reading room of the greatest benefit, and the board may exclude from the use of said library and reading room any and all persons who shall willfully violate such rules.

§ 2976. ANNUAL REPORT.] The board of directors shall make an annual report on July first of each year to the said board of education or school board or board of supervisors stating the condition of the library and property, the various sums of money received from all sources, and how much money has been expended and for what purpose, the number of books and periodicals on hand, the number added by purchase or gift during the year, the number lost and loaned out, the character and kind of books contained in the library, with such other statistics, information and suggestions as they may deem of general interest and a copy of said report shall be filed with the city council or township board and the state library commission.

§ 2977. DONATIONS.] All persons desirous of making donations of money, books, personal property or real estate for the benefit of such library shall have the right to vest the same in the board of directors, to be held and controlled by such board when accepted for the use of such library and reading room, and as to such accepted property said board shall be held and considered to be special trustees.

§ 2978. CITY COUNCIL APPROPRIATE FUNDS.] To aid and facilitate the organization of a library in any city, village or township, as in this article provided, where the same is required by the people thereof, and where in any city the sum of four hundred dollars or more shall have been donated and deposited with the city treasurer for that purpose, and in any village or township where the sum of one hundred and fifty dollars or more shall have been donated and deposited with the village or township treasurer for the benefit of such library, and also where such amount shall, prior to the passage of this code, have been donated and expended for the purchase of a library existing in any such city, village or township, the city council of such city is authorized and it shall be its duty to appropriate two hundred dollars from the general fund of such city for such library, for which amount a warrant shall be drawn on the city treasurer; and the board of trustees of such village or the board of supervisors of such township are authorized and it shall be their duty to appropriate one hundred dollars from the general fund of such village or township for such library, for which amount a warrant shall be drawn on such village or township treasurer; provided, that in the case of any library associations now existing it shall first agree to turn over to the li

brary and reading room thus established all books, periodicals and other property. The treasurer of such city, village or township shall accept such warrant and apply the proceeds from the sale of the same to the library fund, which, together with the amount donated, shall be held subject to the order of the board of directors for such library, and the payment of such warrant shall be provided for in the next assessment of taxes in such city, village or township, and such library may be organized without submitting the same to a vote as provided in section 1.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force from and after the day of its passage and approval.

Approved March 12, 1909.

CHAPTER 156.

[S. B. No. 102—LaMoure]

STATE LIBRARY COMMISSION.

AN ACT to Amend and Re-enact Chapter 243 of the Laws of 1907, Being an Act to Create a State Library Commission, Defining Its Duties and Making an Appropriation for Its Maintenance.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSION CREATED.] There is hereby created a state public library commission consisting of five members.

§ 2. COMMISSION, OF WHOM COMPOSED.] The state superintendent of public instruction, the secretary of the state historical society and the president of the state library association are hereby constituted members, ex officio, of the said state library commission; and the governor of the state shall appoint, as soon as practicable after the passage and approval of this act, two suitable persons within the state as members of the said state library commission, which appointments shall be confirmed by the senate. The commission shall elect its own officers from among its own members and shall also have the power to select a competent person to have control of the work and who shall be known as the secretary of the library commission and director of library extension.

§ 3. TERM OF OFFICE OF APPOINTED MEMBERS.] The members appointed by the governor shall hold office as follows: One for four years from April 1, 1909, and one for six years from April 1, 1909, and until their successors are appointed and qualified. Appointments made thereafter shall be for the full term of six years each; provided, that in case of appointment to fill a vacancy caused by resignation, death or removal, the appointment shall be made for the unexpired term of the member whose death, resignation or removal caused the vacancy.

§ 4. EXPENSES OF MEMBERS ALLOWED.] No member of said state library commission shall ever receive any salary or per diem or compensation of any kind for services as members of such commission. Members of the state library commission shall be allowed and paid necessary traveling expenses in attending meetings of the commission or in visiting or establishing libraries, and other incidental and necessary expenses connected with the work of the commission.

§ 5. DUTIES.] The state library commission, on and after its creation and organization, shall take over and add to the educational reference library and the system of traveling libraries, and shall continue the same, and, as its funds permit, shall increase the number and usefulness of the libraries. Any city, town, village, school district or community within the state of North Dakota may borrow books under the rules and regulations of the state library commission. The commission shall catalogue and otherwise prepare said books for circulation and shall make rules and regulations according to which the business of the commission shall be done; and also such rules and regulations as shall insure the care, preservation and safe return of all books loaned. The state library commission shall have the power and it shall be its duty to establish a legislative reference bureau for the information and assistance of the members of the legislative assembly in the work of legislation. The legislation of other states and information upon legal and economic questions shall be classified and catalogued in such a way as to render the same easy of access to members, thereby enabling them better to prepare for their work. It shall be the duty of the legislative librarian to assist in every way possible the members of the legislative assembly in obtaining information and in the preparation of bills.

§ 6. COMMISSION GIVES ADVICE AND AID.] The librarian or trustees of any free public library or the trustees of any village, town or community, entitled to borrow books from said traveling libraries may, without charge, ask and receive advice and instruction from said library commission upon any matter pertaining to the organization, maintenance or administration of the libraries, and said commission shall, as far as possible, promote and assist by counsel and encouragement, the formation of libraries where none exist, and the commission may also send its members to aid in organizing new libraries or improving those already established.

§ 7. STATISTICS KEPT. PUBLISH REPORT.] The state library commission shall keep statistics of the free public libraries of North Dakota and a record of the work done and books loaned by said commission, and shall make a full report to each general session of the legislature of all expenditures by the commission, and of such statistics and records as shall show the work done by the commission, the use made of the traveling libraries, and of all other matters which they deem expedient for the information of

the legislature, and the printing of which, and all other printing coming within the purview of the library commission, shall be paid for out of the general printing fund of the state.

§ 8. OFFICES PROVIDED.] There shall be provided in the capitol building adequate office room, to be furnished in the same manner as other offices therein are furnished, for the state library commission, with such suitable quarters as may be necessary for the proper shelving of the educational reference library, the books of the traveling libraries and the legislative reference collection.

§ 9. APPROPRIATION.] There is hereby appropriated for the use and purposes of the state library commission any unexpended balances in the funds appropriated for the educational reference library and traveling libraries, and also an annual appropriation of seven thousand eight hundred dollars out of any moneys in the state treasury not otherwise appropriated.

§ 10. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed, especially any acts or parts of acts carrying any appropriations for the so-called educational reference library and traveling libraries.

§ 11. EMERGENCY.] Whereas, an emergency exists in that there is now no adequate provision for the maintenance of the state library commission, this act shall take effect and be in force on and after its passage and approval.

Approved March 3, 1909.

LIENS

CHAPTER 157.

[S. B. No. 20—Purcell]

RENEWAL OF LIENS AND JUDGMENTS.

AN ACT to Amend Sections 7083 and 7085 of the Revised Codes of the State of North Dakota for the Year 1905, Relating to the Method of Renewing Liens and Judgments and Providing for Renewing the Same Without Suit for an Additional Term of Ten Years and Allowing Execution Thereon After Renewal.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 7083 of the revised codes of 1905 is amended to read as follows:

§ 7083. JUDGMENTS, RENEWAL OF. CONTINUING LIEN.] Any judgment directing in whole or in part the payment of money which has heretofore, or may hereafter, be duly entered and docketed in

the book in the office of the clerk of any district court of this state, whether said judgment was originally rendered by the court in whose clerk's office the same is entered, or whether entered upon a transcript of judgment from any other county in the state, pursuant to sections 7082, 7085 and 7086, revised codes of 1905, or upon a certified transcript of the docket entry of a judgment or decree of any district court or circuit court of the United States, within the state of North Dakota, pursuant to sections 7087 and 7088, revised codes of 1905, or entered upon a certified transcript of the judgment of a justice of the peace, pursuant to section 7093, revised codes of 1905, or entered pursuant to any other provision of law, may be renewed, and the lien thereof continued for a further period of ten years from and after the filing and docketing of the affidavit for renewal, as hereinafter provided.

§ 2. AMENDMENT.] Section 7085 of the revised codes of 1905 is amended to read as follows:

§ 7085. CLERK SHALL ENTER AFFIDAVIT.] The affidavit mentioned in the preceding section (7084) shall be immediately entered by the clerk at length in the judgment book in the same manner and with the same effect as the original judgment, and the clerk shall enter in his judgment docket forthwith, after a statement of said original judgment, the date of said renewal, the fact of renewal, and the amount for which said judgment is renewed, and the entry and docketing of said affidavit of renewal shall operate to continue the lien of said judgment on all the real property, excepting the homestead of the judgment debtor or debtors, in the county where the same is so docketed, which he or they may have at the time of the docketing thereof in the county in which such real estate is situated, or which he or they may acquire at any time thereafter for ten years from the time of such re-docketing in the county where the same is so entered; and a certified copy of said renewal affidavit and of the docket entries thereon, certified by the clerk of the district court wherein the same is filed, entered and docketed, as aforesaid, may by the plaintiff be filed and docketed in any other county of the state of North Dakota in which a transcript of the original judgment was filed, pursuant to sections 7082, 7085 and 7086 of the revised codes of 1905; provided, that when any such affidavit has heretofore been filed pursuant to said sections 7083, 7084 and 7085 of the revised codes of 1905, the clerk of any such district court where such affidavit is filed shall forthwith re-docket said judgment for the amount so shown by said affidavit in the same manner and with the same effect as said original judgment, but said affidavit and re-docketing shall never prevent the judgment debtor from having a satisfaction thereof on payment of the amount actually due on said judgment.

Approved March 11, 1909.

CHAPTER 158.

[S. B. No. 19—Purcell]

MECHANIC'S LIENS.

AN ACT to Amend Section 6237 of the Revised Codes of 1905, Relating to the Filing of Mechanic's Liens, the Giving of Notice of Furnishing Materials to Contractors and Sub-contractors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 6237 of the revised codes of 1905, is amended to read as follows:

§ 6237. WHO MAY HAVE, FOR WHAT. DUTY OF MATERIAL MAN.] Any person who shall perform any labor upon, or furnish any materials, machinery or fixtures for the construction or repair of any work of internal improvement, or for the erection, alteration or repair of any building or other structure upon lands or in making any other improvements thereon, including fences, sidewalks, pavings, wells, trees, grades, drains or excavations under a contract with the owner of such land, his agent, contractor or sub-contractor, or with the consent of such owner, shall, upon compliance with the provisions of this chapter, have for his labor done, or materials, fixtures or machinery furnished, a lien upon such building, erection or improvement, and upon the land belonging to such owner on which the same is situated, or to improve which said work was done, or the things furnished, to secure the payment for such labor, machinery, material or fixtures; provided, no person furnishing material, machinery or fixtures for any of the purposes aforesaid, shall be entitled to a lien under this chapter unless he shall keep an itemized account thereof, separate and apart from all other items of account against the purchaser, and in the case of furnishing such materials, machinery or fixtures to a contractor or sub-contractor, no lien shall be allowed therefor unless the party furnishing the same shall keep a separate account thereof against such contractor or sub-contractor of the material, machinery or fixtures so furnished to be used in the construction, alteration, repair or improvement of the property of each separate person (except in cases where the property is owned by several persons jointly or as co-tenants, in which case such joint owners or co-tenants shall be deemed a person within the meaning of this act), and the mingling of charges in one account for material, machinery or fixtures to be used in the construction, alteration, repair or improvement of the property of different persons (except in cases of joint owners or owners in common) shall defeat the right to a lien against either of such persons; provided, further, that no person who furnished any material,machinery or fixtures

as aforesaid to a contractor or sub-contractor, shall be entitled to file such lien under this chapter unless he notified the owner, or one of the owners in cases of joint owners, of the premises upon or for which the same is to be used, by registered letter immediately after the making of such contract to so furnish material or machinery or fixtures to such contractor or sub-contractor, that he is about to furnish the same, and the probable charge therefor; provided, further, that where the work or material for which a mechanic's lien is being claimed was furnished under contract with a contractor or sub-contractor, the property owner shall not be liable to lien claimants to an aggregate amount greater than the contract price he was to pay such contractor or sub-contractor. The owner shall be presumed to have consented to the furnishing of such labor or material or machinery or fixtures if at the time, he had knowledge thereof, and did not give notice of his objections thereto to the person entitled to such lien. The provisions of this chapter shall not be construed to apply to claims or contracts for lightning rods or any of their attachments.

Approved March 5, 1909.

LIVE STOCK

CHAPTER 159.

[S. B. No. 4—Gunderson]

GLANDERED HORSE INDEMNITY APPROPRIATION.

AN ACT to Appropriate the Sum of Eighty Thousand Dollars, or As Much Thereof as May Be Necessary to Indemnify Persons Who Have Lost Animals From the Disease Known as Glanders.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of eighty thousand dollars, or as much thereof as may be necessary, out of the monies in the state treasury, not otherwise appropriated, for the purpose of paying approved claims now on file or that may hereafter be filed in the state auditor's office, asking for indemnity for horses, geldings, mares, asses and mules killed or destroyed on account of being affected with the disease known as glanders, according to house bill numbered two hundred twenty-five, passed by the tenth legislative assembly of the state of North Dakota, being an act indemnifying the owners for animals killed or destroyed, according to law, for being affected with the disease known as glanders.

§ 2. EMERGENCY.] An emergency exists in this, that animals have been killed, claims approved and there is no designated fund out of which the warrants to be issued for such claims can be paid, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1909.

CHAPTER 160.

[S. B. No. 340—Leutz]

MARKING OF TUBERCULOUS CATTLE.

AN ACT to Compel the Proper and Permanent Marking of Tuberculous Cattle When Shown or Proven to be so by the So-called "Tuberculin" Test.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TUBERCULOUS CATTLE TO BE BRANDED.] Hereafter all cattle that are proven tubercular by the so-called "tuberculin" test after having been tested by a legally qualified and duly authorized veterinary surgeon or the owner of such cattle or his agent, shall be immediately marked by punching the letter "T" in the left ear, said letter to be not less than one inch in height and breadth.

§ 2. PENALTY.] Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than ten nor more than fifty dollars, or by confinement in the county jail for not less than ten nor more than thirty days or both.

Approved March 16, 1909.

CHAPTER 161.

[H. B. No. 162—Moen, of Benson]

STALLIONS.

AN ACT to Regulate the Public Service of Stallions in North Dakota, and Providing a Penalty for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LICENSES. RECORDING OF LICENSES.] Every person, firm or company standing or using any stallion for public service in this state, shall cause the name, description and pedigree of such stallion to be enrolled by a stallion registration board hereinafter provided for, and shall secure a license from said board as provided in section three of this act. All license certificates for stallions is-

sued under this act shall be presented to and recorded by the register of deeds of the county or counties in which said stallion is used for public service.

§ 2. STALLION REGISTRATION BOARD, HOW COMPOSED. DUTIES. COMPENSATION.] In order to carry out the provisions of this act, there shall be constituted a stallion registration board, whose duty it shall be to verify and register all pedigrees, and to provide the necessary inspection; to issue stallion license certificates; to make all necessary rules and regulations, and to perform such other duties as may be necessary to carry out the provisions of this act. Said board shall hold its meetings at the agricultural college; these meetings not to exceed four in number each year; providing that the president of the board has power to call special meetings whenever in his judgment it becomes necessary. The members of the board shall receive as compensation for their services the sum of three dollars per day for each day employed, and five cents per mile actually and necessarily traveled in attending the meetings of the board, which sum shall be paid out of the state treasury upon vouchers of the board, duly certified by the president and secretary thereof. The stallion registration board shall be composed of the professor of animal husbandry of the state agricultural college, who shall be ex-officio secretary and executive officer of this board; the professor of veterinary science of the state agricultural college; the state commissioner of agriculture and labor; the president of the state live stock sanitary board, and the president of the North Dakota live stock association.

§ 3. VETERINARY INSPECTION AND VERIFICATION OF BREEDING.] In order for the owner of a stallion to secure the license herein provided for, the stallion must pass a veterinary examination as herein provided for, and be free from any infectious, contagious or transmissable disease or unsoundness. The owner of such stallion must also furnish to the stallion registration board the stud book registry certificate of pedigree of the stallion and all necessary papers relating to his breeding and ownership. Upon verification of pedigree and certificate of breeding (in case of pure bred stallions), and the horse has passed the necessary veterinary inspection, as provided for in this act, a license certificate shall be furnished. The presence of any one or more of the following named diseases shall disqualify a stallion from public service and are hereby defined as infectious, contagious or transmissable disease or unsoundness for this act: Cataract, amaurosis, laryngeal, hemiplegia (roaring or whistling), chorea (St. Vitus Dance, campness, springhalt), glanders, farcy, maladie du coit, urethral gleet, mange, bone spavin, side bone and curb when accompanied by curby hock. The stallion registration board is hereby authorized to refuse certificates of enrollment to any stallion affected with any of these diseases specified and to revoke a previously issued license certificate of any stallion found upon examination to be so affected.

§ 4. EXAMINATION OF STALLIONS, METHODS, ETC.] The veterinary examination of the stallions provided for in this act must be done by a qualified graduate veterinarian who shall be in the employ of the stallion registration board. The stallion must be brought for examination to the nearest point where the inspector will be stationed on specified dates. The stallion owner must be given at least ten days' notice of the dates when the inspector will be at specified towns of the county, in which the owner of the stallion resides. The inspector must not make known the results of the inspection of a stallion to the owner, at the time of inspection, but report to the secretary of the stallion registration board, who will notify the owner at the time he grants or refuses to grant him a license certificate for his horse.

§ 5. METHOD OF CARING FOR PROTESTS.] Whenever a stallion has been rejected by the registration board and the owner is not satisfied with the decision of the official of the board, the owner may file a protest against the decision of the official inspector, and said protest shall state that to the best knowledge and belief of the person making the protest, the stallion in question is eligible to be granted a license; whereupon an examination of the stallion in question shall be made by three experts, one appointed by the stallion registration board, one by the owner of the stallion; and the third by the other two experts already provided for, but all experts shall be graduates of recognized veterinary colleges. In case all three or any two of the experts declare the stallion is eligible to receive a license, then the expense of the consultation shall be paid by the stallion registration board, out of such funds as are hereinafter provided for, or if three or any two of the experts declare the horse not to be eligible in accordance with the provisions of this act, the expense incurred shall be paid by the person making the protest and it may be collected in same manner as in any case of an appeal in civil action.

§ 6. AUTHORITY TO GRANT TEMPORARY LICENSES.] The stallion registration board is authorized in cases of emergency to grant temporary license certificates without veterinary examination, upon receipt of an affidavit of the owner to the effect that to the best of his knowledge and belief said horse is free from infectious, contagious or transmissable disease or unsoundness. Temporary license certificates shall be valid only until veterinary examination can reasonably be made.

§ 7. POSTING COPIES OF LICENSE CERTIFICATES.] The owner of any stallion standing for public service in this state shall post and keep affixed during the entire breeding season copies of the license certificates of such stallion, issued under the provisions of this act, in a conspicuous place upon the main door leading into every stable or building where the said stallion stands for public service. Said copies shall be printed in bold face and conspicuous types, not smaller than pica, especially the word "pure bred," "grade," etc.

§ 8. FORM OF LICENSE CERTIFICATE.] The license certificates issued after proper examination for a stallion whose sire and dam are of pure breeding and the pedigree of which is registered in a stud book recognized by the United States department of agriculture, or in any American stud book or registry association that recognizes and records stallions that have five pure top crosses, shall be in the following form:

STALLION REGISTRATION BOARD.

LICENSE CERTIFICATE OF PURE BRED STALLION.

The pedigree of the stallion.....(name).....owned by bred by described as follows:, has been examined at the agricultural college, N. D., division of animal husbandry, and it is hereby certified that the said stallion is of pure breeding, is registered in a studbook recognized by the department of agriculture, Washington, D. C. The above named stallion has been examined by....., a duly licensed veterinarian, and is reported as free from infectious, contagious or transmissable disease or unsoundness, and is licensed to stand for public service in the state of North Dakota.

(Signed)
Professor of Animal Husbandry and
Secretary Registration Board.

The license certificate issued after proper examination for a stallion whose sire or dam is not of pure breeding shall be in the following form:

STALLION REGISTRATION BOARD.

LICENSE CERTIFICATE OF GRADE STALLION.

The pedigree of the stallion(name) owned by bred by described as follows color breed.....foaled in the year has been examined at the agricultural college, N. D., division of animal husbandry, and it is hereby certified that the said stallion is not of pure breeding and is, therefore, not eligible for registration in any studbook recognized by the department of agriculture, Washington, D. C.

The above named stallion has been examined by a duly licensed veterinarian, and is reported as free from infectious, contagious or transmissable disease or unsoundness, and is licensed to stand for public service in the state of North Dakota.

(Signed)
Professor of Animal Husbandry and
Secretary Stallion Registration Board.

§ 9. ADVERTISEMENT MUST CONTAIN COPY OF LICENSE.] Every bill, poster or advertisement issued by the owner of any stallion licensed under this act, or used by him for advertising such stallion, shall contain a copy of his license certificate and shall not contain illustrations, pedigrees or other matter that is untruthful or misleading.

§ 10. FEES FOR GRANTING LICENSE AND INSPECTION.] A fee not exceeding two dollars shall be paid to the secretary of the stallion registration board for the examination and enrollment of each pedigree and the issuance of a license certificate in accordance with the breeding of the stallions as above provided. A fee not exceeding one dollar shall be paid annually for the renewal of pedigree certificate and service license. A fee of five dollars shall also be paid for the veterinary examination of the stallion as provided in this act. This fee shall be collected by the inspector at the time the inspection is made. Stallions shall be examined every three years until ten years of age and after the first examination, they shall be exempt from re-examination if they are ten years of age or over.

§ 11. FEE FOR TRANSFER OF LICENSE.] Upon a transfer of the ownership of any licensed stallion under the provisions of this act, the license certificate may be transferred by the secretary of this board to the transferee upon submittal of satisfactory proof of such transfer of ownership upon payment of fifty cents.

§ 12. HOW EXPENSES ARE PROVIDED FOR. BOARD MAKES ANNUAL REPORT TO GOVERNOR.] The funds accruing from the above named fees shall be used by the stallion registration board to defray the expenses of enrollment of pedigrees and issuance of licenses; to pay for the services and expenses of the veterinary inspector; to publish reports or bulletins containing lists of stallions examined; to encourage the horse breeding interests of this state, to disseminate information pertaining to horse breeding, and for any other purpose as may be necessary to carry out the purposes and enforce the provisions of this act. It shall be the duty of this board to make annual report, including a financial statement, to the governor of the state, and all financial records of said board shall be subject to inspection at any time by the public examiner.

§ 13. PROVISION FOR A LIEN ON THE COLTS OF A LICENSED STALLION.] If the provisions of this act are complied with the owner of a stallion may file a lien upon any colt gotten by such stallion for the sum stipulated to be paid for the services of the stallion at any time before the colt is one year old in case the price agreed upon for such service remains unpaid, and sell the same at public auction upon ten days' notice to be posted in at least three public places in the town where the owner of such colt resides, and apply the proceeds of such sale to the payment of the amount due for such services and the expenses of such seizure and sale, returning the residue to the owner of the colt.

§ 14. PENALTY FOR VIOLATION OF LAW.] Violation of any of the provisions of this act shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense.

§ 15. POWER OVER AND OF PEACE OFFICERS.] The stallion registration board shall have power to call any sheriff, deputy sher-

iff or constable to execute its orders, and officers shall obey the orders of said board, and the officers performing such duties shall receive compensation therefor as is prescribed by law for like services, and shall be paid therefor in like manner. Any officer may arrest or take before any justice of the peace of the county any person found violating any provision of this act, and such officers shall immediately notify the state's attorney of such arrest and he shall prosecute the person so offending according to law.

§ 16. REPEAL.] All acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.

§ 17. WHEN IN FORCE.] This law will go into effect January 1, 1910.

Approved March 16, 1909.

CHAPTER 162.

[S. B. No. 124—Baker]

DISEASED ANIMALS.

AN ACT to Amend, Repeal and Re-enact Section 2005 of the Revised Codes of 1905, Relating to the Sale or Other Disposition of Animals Affected With Contagious or Infectious Diseases and the Use of Milk or Hides from any Such Animals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2005 of the revised codes of 1905 is amended so as to read as follows:

§ 2005. DUTY OF OWNERS OF STOCK. ANIMALS IN TRANSIT.] The following regulations shall be observed in all cases of disease covered by this article:

First: It shall be unlawful to sell, give away, or in any manner part with any animal affected with or suspected of being affected with any contagious or infectious disease, with such exception as shall be provided for by the rules and regulations of the live stock sanitary board, and in case of any animal that may be known to have been affected with or exposed to any such disease within one year or prior to such disposal due notice of the fact shall be given in writing to the person receiving the animal.

Second: It shall be unlawful to kill for butcher purposes any such animals, or to sell, give away, or use any part of it or its milk, or to remove any part of the skin, with such exceptions as shall be provided for by the rules and regulations of the live stock sanitary board. A failure to observe these provisions shall be deemed a misdemeanor and on conviction shall be punished by a fine of not less than one hundred dollars or be imprisoned in the county jail for a term of not less than thirty days nor more than one year. It shall be the duty of the owner, agent or person, having in charge any

animal infected or suspected of being infected with any contagious or infectious disease, immediately to confine the same in a safe place, isolated from all other animals and with all necessary restrictions to prevent the dissemination of the disease, until the arrival of an accredited agent of the live stock sanitary board.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, under the act amended the proper disposal of animals affected with certain diseases is rendered impossible, an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1909.

MARRIAGES

CHAPTER 163.

[S. B. No. 298—Overson]

VALIDATING LICENSES.

AN ACT to Amend and Re-enact Section 9015 of the Revised Codes of North Dakota for 1905, Validating Marriages Performed Without Authority or Where Licenses Have Been Issued by a Clerk of the County Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9015 of the revised codes of North Dakota for 1905 is amended and re-enacted to read as follows:

§ 9015. WHEN MARRIAGE WITHOUT AUTHORITY VALID.] No marriage shall be void by reason of being performed without authority, or on account of the marriage license being issued by a clerk of the county court, if otherwise lawful and the parties thereto, or one of them, believes it lawful. All marriages otherwise lawful heretofore solemnized where marriage licenses have been issued by a clerk of the county court are hereby declared valid.

Approved March 15, 1909.

CHAPTER 164.

[S. B. No. 60—Crane]

MISCEGENATION.

AN ACT to Prevent Miscegenation, by Prohibiting the Marriage of White Persons to Negro Persons, by Prohibiting Negro Man and White Woman, or Negro Woman and White Man, Occupying the Same Room; by Prohibiting Adultery or Fornication between Whites and Negroes; by Prohibiting the Issuing of Marriage Licenses for White Persons to Negro Persons; by Prohibiting the Performance of the Marriage Ceremony Between White Persons and Negroes; by Prescribing Penalties for Violations of the Provisions of This Act, and Defining a Negro Person.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MARRIAGES BETWEEN WHITE AND NEGRO PERSONS.] It shall be unlawful for any white male person, residing or being in this state, to intermarry with any negro female person; and it shall be in like manner, unlawful for any white female person residing or being in this state, to intermarry with any negro male person, and every marriage hereafter formed and solemnized in contravention of the provisions of this section shall be utterly null and void, and either or both of the contracting parties to such surreptitious marriage shall be punished by imprisonment in the state penitentiary for a term not exceeding ten years, or by a fine not exceeding two thousand dollars or by both fine and imprisonment.

§ 2. DEFINITION OF NEGRO PERSON.] Every person who shall have one-eighth or more of negro blood shall be deemed and held to be a colored person or negro.

§ 3. ISSUING LICENSE OF MARRIAGE BETWEEN NEGROES AND WHITES.] If any county judge shall knowingly issue a marriage license for a white person to marry a negro person, within the meaning of section two of this act, he shall be punished by imprisonment in the state penitentiary for a term not exceeding two years or by a fine not exceeding two thousand dollars, or by both fine and imprisonment.

§ 4. PERFORMING MARRIAGE CEREMONY BETWEEN NEGROES AND WHITES.] If any judge, justice of the peace, priest or any person authorized to solemnize the rites of matrimony shall knowingly perform the ceremony of marriage for any white person with a negro person within the meaning of this act, he shall be punished by imprisonment in the state penitentiary for a term not exceeding two years or by a fine not exceeding two thousand dollars or by both fine and imprisonment.

§ 5. CERTAIN MARRIAGES BETWEEN WHITES AND NEGROES DECLARED VALID.] In all cases where marriages have been contract-

ed or solemnized between white persons and negroes in this state prior to the taking effect of this act and where the parties thereto have continued to live together as man and wife up to that date, such marriage shall be held valid to all intent and purposes.

§ 6. NEGRO MAN AND WHITE WOMAN OR WHITE MAN AND NEGRO WOMAN OCCUPYING SAME ROOM.] Any negro man and white woman or any white man and negro woman who are not lawfully married to each other who shall live in and occupy the same room, shall each be punished by imprisonment in the state penitentiary for a term not exceeding twelve months or by a fine not exceeding five hundred dollars or by both fine and imprisonment.

§ 7. WHITE PERSONS AND NEGROES LIVING IN ADULTERY OR FORNICATION.] If any white person and negro shall live in adultery or fornication with each other, each shall be punished by imprisonment in the state penitentiary for a term not exceeding twelve months or by a fine not exceeding five hundred dollars or by both fine and imprisonment.

Approved March 13, 1909.

MILITIA

CHAPTER 165.

[H. B. No. 351—Baker, of Stark.]

THE MILITARY CODE.

AN ACT to Provide a Military Code for the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PERSONS SUBJECT TO MILITIA DUTY. EXEMPTIONS.] All able bodied male citizens and able bodied males of foreign birth who have declared their intention to become citizens, who are more than eighteen or less than forty-five years of age, and who are residents of this state, shall constitute the militia, subject to the following exemptions:

1. Persons exempted by the laws of the United States.
2. Persons exempted by the laws of this state.

§ 2. HOW MILITIA SHALL BE ENROLLED.] It shall be the duty of the assessor in each assessor's district in this state, when making the assessment, to make out a list containing the names of all persons in their respective districts liable to perform military duty, and file a copy of such lists with the county auditor when he makes his assess-

ment returns. Such list shall state the names, residence, age and occupation of the persons enrolled and their previous or existing military or naval service.

§ 3. NOTICE OF ENROLLMENT. EXEMPTION CLAIMS.] The assessor making the enrollment shall, at the time of making the same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him or leaving it with some person of suitable age and discretion, at his place of residence. All persons claiming exemption must, within fifteen days after receiving such notice, file a written statement of such exemption, verified by affidavit, in the office of the county auditor. Such auditor shall thereupon, if such person be exempted according to law, mark the word "exempt" opposite his name, and the remainder of all thus enrolled, and not thus found to be exempt, shall constitute the militia of the state, and such auditor shall transmit a certified copy of such corrected roll to the adjutant general on or before July first of each year.

§ 4. DESIGNATION AND CLASSIFICATION OF THE MILITIA.] The militia of the state shall be divided into two classes: the active and the reserve militia. The active militia shall consist of the organized and uniformed military forces of the state, which shall be known as the North Dakota national guard; the reserve militia shall consist of all those liable to service in the militia, but not serving in the national guard of the state.

§ 5. COMMANDER IN CHIEF.] The governor of the state, by virtue of his office, shall be commander in chief of the militia of the state, except of such portions as may at times be in the service of the United States. Whenever the governor is unable to perform the duties of commander in chief, the senior officer of the line of the national guard, present for duty in the state shall command the militia of the state. No armed military force from another state, territory, or district shall be permitted to enter the state for the purpose of doing military duty therein, without the permission of the governor, unless such force is part of the United States army or is acting under the authority of the United States.

§ 6. STAFF OF THE GOVERNOR.] The staff of the governor shall consist of one adjutant general, with the rank of brigadier general, who shall perform the duties of quarter-master-general and chief of ordnance; one judge advocate general, with the rank of colonel, who shall perform the duties of inspector-general; one chief of supply, with the rank of colonel, who shall perform the duties of paymaster-general and commissary general, and, when a vacancy shall occur in the office of chief of supply, by reason of the death, resignation or promotion of the present chief of supply, the title of this office shall thereafter be paymaster-general, and the said paymaster-general shall thereafter perform the duties of commissary general and chief of supply. The personal staff of the governor shall consist of nine aides-de-camp. Three of such number shall be detailed by him from the commissioned officers of the national guard

holding commissions on the active list of the grade below that of colonel, and shall have the rank of colonel, and their appointment shall operate as commission as aides-de-camp, but shall not add to the actual grade in the guard of the officers so appointed. Such aides-de-camp shall not be relieved from duty with their respective organizations when such organizations shall be performing any ordered duty. The governor is also authorized to appoint additional aides-de-camp, with the rank of lieutenant-colonel, not to exceed six in number, and without restriction as to source of selection. All of these staff officers shall be appointed by the governor, shall hold office during his pleasure, and their commissions or detail as staff officers shall expire with the term of office of the governor appointing them.

§ 7. POWER OF THE GOVERNOR IN CASE OF INVASION, ETC.] The governor shall have power, in case of insurrection, invasion, tumult, riot, or breach of the peace, or imminent danger thereof, to order into the active service of the state any part of the militia that he may deem proper. When the militia of this state or a part thereof is called forth under the constitution and laws of the United States, the governor shall order out for service the active militia or such part thereof as may be necessary, and if the number available be insufficient, he shall order out such part of the reserve militia as he may deem necessary. During the absence of organizations of the national guard in the service of the United States their state designations shall not be given to new organizations.

§ 8. METHOD OF DRAFTING RESERVES FOR SERVICE.] Whenever it shall be necessary to call out any portion of the reserve militia for active duty the governor shall direct his order to the adjutant general, who, upon receipt of same, shall forthwith cause to be drafted by lot, by mustering officers detailed for that duty from the national guard, as many of the reserve militia, or accept as many volunteers as are required by the governor, and the adjutant general shall forthwith forward to the governor a list of persons so drafted or accepted as volunteers.

§ 9. PUNISHMENT FOR FAILURE TO APPEAR.] Every member of the militia ordered out, or who volunteers, or is drafted under the provisions of this act, who does not appear at the time and place designated by his commanding officer, the adjutant general or mustering officer, within twenty-four hours of such time, or who does not produce a sworn certificate of physical disability from a physician in good standing, showing his disability to appear, shall be taken as a deserter and dealt with as prescribed in the articles of war of the United States.

§ 10. ORGANIZATION OF RESERVE MILITIA WHEN ORDERED OUT.] The portion of the reserve militia ordered out or accepted into the service, as indicated in sections eight and nine of this article, shall be immediately mustered into the service of the state for three years or such less period as the governor may direct, and shall be organ-

ized into batteries or companies, which may be arranged in battalions or regiments, or assigned to organizations of the national guard already existing. The governor is authorized to appoint the officers necessary to commence or complete any organization thus created. Such new organization shall be equipped, disciplined and governed according to this military code and the military regulations of the state.

§ 11. PROCLAMATION OF STATE OF INSURRECTION.] Whenever any portion of the militia is employed in aid of the civil authority, the governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county or city in which the troops are serving, or any specified portion thereof, to be in a state of insurrection.

§ 12. OCCASION WHEN THE ARTICLES OF WAR OF THE UNITED STATES ARE TO BE IN FORCE.] Whenever any portion of the militia shall be on duty under or pursuant to the orders of the governor or shall be on duty or ordered to assemble for duty in time of war, insurrection, invasion, public danger, or to aid the civil authorities on account of any breach of the peace, tumult, riot, resistance to process of this state, or imminent danger thereof, or for any other cause, the articles of war governing the army of the United States, as far as such regulations are consistent with this chapter and the regulations issued thereunder, shall be in force and regarded as a part of this chapter until said forces shall duly be relieved from such duty. As to offences committed when such articles of war are so in force, court-martial shall possess, in addition to the jurisdiction and power of sentence and punishment herein vested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under such articles of war or the regulations or laws governing the United States army or the customs and usages thereof, but no punishment under such rules and articles which shall extend to the taking of life shall, in any case, be inflicted except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist, and then only after the approval by the governor of the sentence inflicting such punishment. Imprisonment other than in guardhouse shall be executed in jails or prisons designated by the governor for the purpose.

§ 13. RELIEF FROM CIVIL OR CRIMINAL LIABILITY. SECURITY FOR COSTS.] Members of the militia ordered into active service of the state by any proper authority shall not be liable, civilly or criminally, for any act or acts done by them while on duty When a suit or proceeding shall be commenced in any court by any person against any officer of the militia, for any act done by such officer in his official capacity in the discharge of any duty under this act, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting the suit or proceeding to file security for the payment of the costs

that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence. In case the plaintiff shall be non-suited, or have a verdict or judgment rendered against him, the defendant shall recover treble costs. Active service under this act shall be deemed to be service in case of or to prevent insurrection, riot, or invasion, under order of the commander in chief, communicated through the proper military channels.

§ 14. THE ADJUTANT GENERAL.] The adjutant general shall be in control of the military department of the state. He will perform such duties as pertain to the adjutant general and the other chiefs of staff departments, under the regulations and customs of the United States army. He will superintend the preparation of all returns and reports required by the United States from the state and will perform all the duties prescribed for him in this military code. He shall receive the sum of nine hundred dollars per annum for the purpose of defraying his personal expenses in the discharge of the duties pertaining to his office and for other necessary expenses, to be paid quarterly without the filing of any itemized statement.

1. He shall keep a register of all the officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and make a report on or before the thirty-first day of December in each year to the governor, including a detailed statement of all the expenditures for military purposes during that year.

2. He shall, at the expense of the state, when necessary, cause the military law, the general regulations of the state, and articles of war of the United States, to be printed, indexed and bound in proper and compact form and distributed to the commissioned officers of this state at the rate of one copy to each; and to each commissioned officer and headquarters he shall issue one copy of the necessary text books and of such annual reports concerning the militia as the governor may direct.

3. He shall cause to be prepared and issued all necessary blank books, blanks, forms and notices required to carry into full effect the provisions of this chapter. All such books and blanks shall be and remain the property of the state.

4. The seal now used in the office of the adjutant general shall be the seal of his office, and shall be delivered by him to his successor.

5. The adjutant general may have the necessary clerks and employes and as many laborers as may be required from time to time.

6. In order that the national guard of the state may receive the benefit of the funds provided by congress, it shall be the duty of the adjutant general of the state to submit a plan of proposed field or camp service of instruction prepared by the commanding officer of the national guard for the ensuing year, with an estimate of

funds required for payment, subsistence and transportation of the portion of the national guard participating therein, said estimate to furnish the details and to be made out in the form required by instructions from the secretary of war.

7. He shall make such regulations relating to the preparation of reports and returns and to the care and preservation of property for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand; such regulations to be operative and in force when promulgated in the form of general orders, circulars or letters of instructions.

8. The adjutant general shall, in addition to other duties, organize and conduct a bureau of pensions, for the purpose of assisting ex-soldiers or sailors, residents of the state, who may apply for pensions on account of wounds or disability incurred in the service of the United States, in establishing their claims, without fee or commissions.

9. All military property of the state which, after a proper inspection shall be found unsuitable for the use of the state, shall, under the direction of the governor, be disposed of by the adjutant general at public auction after suitable advertisement of the sale, daily for ten days, in at least one newspaper published in the English language in the city or county where the sale is to take place; or the same may be sold at private sale when so ordered by the governor. He shall bid in the property or suspend the sale whenever, in his opinion, better prices may or should be obtained. He shall, from time to time, render to the governor a just and true account of the sales made by him, and shall expend the proceeds of the same in the purchase of other military property, as the governor may direct. He shall be responsible for all the arms, ordnance, accoutrements, equipments, and other military property which may be issued to the state by the secretary of war in compliance with law; and it shall thereafter be his duty to prepare returns of said arms and other property of the United States at the times and in the manner requested by the secretary of war. He shall, upon the order of the governor, turn into the ordnance department of the United States army the rifles, carbines, bayonets, bayonet scabbards, gun slings, belts and such other necessary accoutrements and equipments, the property of the United States and now in possession of the state, which may be replaced from time to time, by new arms, equipments, etc., sent by the United States in substitution therefor, and cause the same to be shipped, under instructions from the secretary of war, to the designated arsenal or depot at the expense of the United States, and when the national guard of the state shall be fully armed and equipped with standard service magazine arms, and the standard equipment and accoutrement of the United States army, he shall cause all the remaining arms, equipments, etc., the property of the United States and in possession of the state, to be transferred and shipped as above directed.

10. He shall issue and cause to be issued all military property and make purchases for that purpose. No military property shall be issued to persons or organizations other than those belonging to the active militia, except to such portions of the reserve militia as may be called out by the governor. Purchases of property not exceeding one hundred dollars in value shall be made in such manner as the adjutant general shall direct. If such purchase requires an expenditure exceeding one hundred dollars and not exceeding five hundred dollars, he shall procure written proposals to furnish such property from at least two parties, and shall purchase such property from the lowest responsible bidder. If such purchase shall require the expenditure of a sum exceeding five hundred dollars, he shall publicly advertise, for not less than ten days, for sealed proposals for the furnishing of such property. Such proposals shall be publicly opened by the adjutant general at the place, day and hour designated in such advertisement. The adjutant general shall, if the governor approve, make contract with the lowest responsible bidder to furnish such property. All proposals and contracts made under the authortiy hereby conferred shall be filed in the office of the adjutant general. The adjutant general is authorized and directed whenever, in his opinion, it shall be to the interest of the state, to require a party who shall agree or contract to furnish such property, to give bond to the people of this state, in such sum and with such surety as he shall direct, conditioned for the faithful performance of such agreement or contract. In case default is made, such bond shall be prosecuted by the attorney general and all moneys recovered shall be applied by the adjutant general to the benefit of the national guard. All property purchased under the authority hereby granted shall be inspected by an inspector or an officer detailed for that purpose by the commanding officer of the national guard, and no payment shall be made therefor until it shall appear by the certificate of such officer that such property is of the kind and quality specified in such agreement or contract. In case of insurrection, invasion, tumult, riot, breaches of the peace, or imminent danger, or other exigency, the governor may, upon the certificate of the commanding officer of the national guard, temporarily suspend the operation of this paragraph and direct the adjutant general to purchase such military property as may be required in open market. He shall report such action, with the reason therefor, and a statement of the property purchased and the prices paid therefor, to the legislature at its next session.

11. He shall render annually to the governor a statement in detail showing the acquisition and disposition of all clothing, ordnance, arms, ammunition and other military property on hand or issued.

12. He shall keep in his office a list of the retired officers of the organized militia, showing their age, military experience and training. He shall annually request the commandant of cadets of the agricultural college and state university to furnish him with the

names of two graduates qualified to act as officers, and shall request from any other state educational institution that maintains an efficient military department, the name of one graduate similarly qualified. The names of the persons so reported to him, together with any others designated by the war department of the United States, shall be added to the list of persons eligible for appointment as officers. In case of a call upon the governor of North Dakota by the president of the United States for volunteers, all regiments organized, in addition to the then organized militia of North Dakota, shall be officered above the rank of second lieutenant by officers selected and commissioned by the governor by and with the advice of the adjutant general, from the persons whose names are listed in the adjutant general's office under this section, or from the officers and non-commissioned officers of the organized militia; provided, that no person shall be commissioned colonel of a volunteer regiment who has not served at least two years as a field officer in either the organized militia or volunteers or as a captain or field officer in the regular army of the United States, and that no person shall be commissioned major in a volunteer regiment who has not served at least two years as either captain or first lieutenant in either the organized militia, volunteers or regular army of the United States.

§ 15. PAYMASTER GENERAL.] The paymaster general shall, before entering upon the discharge of his duties, file in the office of the adjutant general a good and sufficient bond payable to the state of North Dakota in a penal sum of not less than ten thousand dollars, approved by the governor, conditioned for the faithful discharge of his duties.

1. He shall file at least quarterly with the state auditor receipts for all state funds paid out by him signed by the parties to whom payment was made.

2. His books and vouchers shall be at all proper times subject to inspection by the adjutant general, or any representatives of the commander in chief.

3. The paymaster general shall from time to time file with the state auditor a written requisition, approved by the adjutant general, for such amount of money standing to the credit of the national guard on the books of the state auditor or state treasurer as he may deem necessary to draw to pay indebtedness incurred or about to be incurred.

4. Immediately upon the filing in his office of said requisition, the state auditor shall draw a warrant on the state treasurer for the amount named in said requisition and forward same to the paymaster general.

5. It is hereby made the duty of the public examiner to examine said books and accounts at least once each year, and upon said examination to deliver to the paymaster general a certificate as to the correctness of the same.

6. The paymaster general shall make all purchases of commissary stores and supplies as may be necessary, under such rules and regulations as may be prescribed by the commander in chief.

7. No funds appropriated by the legislature for the maintenance of the militia shall be drawn except upon the requisition of the paymaster general. He shall file with the adjutant general an annual financial report showing all receipts and disbursements.

§ 16. ARMORY COMMISSION.] Whenever any arsenal, armory or other quarters of the militia, camp ground or rifle range is owned or leased by the state, the same shall be under the charge of the armory commission, which shall consist of the governor, the adjutant general and the commanding officer of the regiment. From the time this act takes effect a commission so constituted shall take charge of the erection and completion of all such property, as may hereafter be authorized to be erected and of all such property, the erection or completion of which is in progress at the time this act takes effect under any general or special law, and as to such work as is in progress, such commission is hereby invested with all the powers conferred by law on any officers, boards or commissions heretofore charged with such work or any part thereof. It shall keep in good repair the arsenals, armories, quarters, camp grounds and rifle ranges in its charge, and all moneys appropriated heretofore or which may be appropriated hereafter for the erection or repair of such buildings, grounds or ranges shall be expended by said commission in the same manner as other moneys appropriated for military purposes are authorized to be expended, except as herein otherwise provided. Every such commission is hereby authorized to appoint, and at its pleasure discharge, its own architects and inspectors. When ordinary repairs not exceeding one hundred dollars in cost are necessary, the officer in charge of the building or grounds shall report to the adjutant general what is required to be done, submitting estimates from at least two responsible parties, and the adjutant general may authorize the officer to cause the repairs to be made, designating the party who shall do the work. When repairs, the cost of which will amount to over one hundred dollars, but not more than five hundred dollars, are required, a full statement of the necessity thereof must be made by the officer in charge to the adjutant general, who shall cause estimates of the cost thereof to be prepared by two or more parties, and then cause the work to be done under a contract entered into by him for that purpose. When repairs are to be made, the expenditures for which will exceed the sum of five hundred dollars, the commission shall advertise for proposals, bids shall be received, and contracts regularly entered into. During and upon completion of the work, the expenditure for which will exceed five hundred dollars, it shall be inspected from time to time by an inspector selected by the commission, and payment shall not be made until it appears by the certificate of such inspector that such work has been properly performed and according to the con-

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an efficient military department, the name of one graduate simila
qualified. The names of the persons so reported to him, togeth
with any others designated by the war department of the Uni
States, shall be added to the list of persons eligible for appointm
as officers. In case of a call upon the governor of North Dak
by the president of the United States for volunteers, all regime
organized, in addition to the then organized militia of North Dako
shall be officered above the rank of second lieutenant by offic
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names of two graduates qualified to act as officers, and shall request from any other state educational institution that maintains an efficient military department, the name of one graduate similarly qualified. The names of the persons so reported to him, together with any others designated by the war department of the United States, shall be added to the list of persons eligible for appointment as officers. In case of a call upon the governor of North Dakota by the president of the United States for volunteers, all regiments organized, in addition to the then organized militia of North Dakota, shall be officered above the rank of second lieutenant by officers selected and commissioned by the governor by and with the advice of the adjutant general, from the persons whose names are listed in the adjutant general's office under this section, or from the officers and non-commissioned officers of the organized militia; provided, that no person shall be commissioned colonel of a volunteer regiment who has not served at least two years as a field officer in either the organized militia or volunteers or as a captain or field officer in the regular army of the United States, and that no person shall be commissioned major in a volunteer regiment who has not served at least two years as either captain or first lieutenant in either the organized militia, volunteers or regular army of the United States.

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3. The paymaster general shall from time to time file with the state auditor a written requisition, approved by the adjutant general, for such amount of money standing to the credit of the national guard on the books of the state auditor or state treasurer as he may deem necessary to draw to pay indebtedness incurred or about to be incurred.

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tract. Payment for repairs, the expenditure for which does not exceed five hundred dollars, shall only be made upon a like certificate of the officer in charge of the building or grounds where the same were made. All bills for work done on any of the arsenals, armories, quarters, camp grounds or rifle ranges of the state exceeding one hundred dollars, must be verified by a certificate setting forth that the work has been properly performed, and that the amount charged is reasonable and just. Copies of all contracts and agreements made for the repair or alteration of arsenals, armories, quarters, camp grounds or rifle ranges of the state shall be immediately filed in the office of the adjutant general. Whenever any real property is taken for the purpose of erecting a state armory thereon, the building on such property, or the old materials in the same, may be sold at public or private sale, for the best price that can be obtained, and if the property is taken by the state, the net sum realized therefrom shall be paid into the state treasury, and if taken by a county, to the county treasurer of such county, or it may be used for the improvement of the property taken by the authorities authorized to erect such armory. When real property shall be required for the purpose of a state camping ground, or for rifle practice, or other military purposes in connection with any state arsenal or armory, which is deemed necessary by the armory commission, and such armory commission is unable to agree with the owners for the purchase thereof, title thereto shall be acquired by the attorney general in the name of the people of the state by condemnation, on the written application of the armory commission. The cost of all real property so taken and damages and expenses incurred by and awarded in any proceedings for the condemnation of any such property, shall be paid by the state. The words "armory commission" when used in this chapter shall be construed to refer to the commission provided for by this section.

§ 17. LEGAL ADVISER OF THE COMMANDER IN CHIEF, ETC.] The attorney general of the state shall be the legal adviser of the governor, of the adjutant general and of the armory commission.

§ 18. AUDIT AND PAYMENT OF ACCOUNTS.] No officer of the militia shall incur any expense whatsoever to be paid by the state, except such as are authorized in this chapter, without first obtaining the authority of the governor. In extreme emergencies, however, the commanding officer of any organization or detachment of the active militia may make purchases of such necessities as are absolutely required for the immediate use and care of his command. A report of such action, containing a statement of the articles purchased and the price thereof, must be made forthwith through the channel to the adjutant general. The commander in chief of the state shall be the auditor of all accounts for property purchased by the adjutant general, and the copies of the orders or contracts under which such purchases are made shall be filed in the office of the paymaster general. All other military accounts payable by the state

shall be audited by the adjutant general. Military accounts thus audited shall be paid by the paymaster general of the state from the proper appropriation made by the legislature, upon the warrant of the auditor.

§ 19. THE NATIONAL GUARD, HOW COMPOSED.] The national guard of the state shall consist of one brigadier general, an adjutant general's department, a judge advocate general's department, a pay department, a corps of engineers, a hospital corps, the commissioned officers heretofore or hereafter retired or rendered supernumerary, the organization now forming the national guard at this date, and such others as may be organized hereafter and such persons as are enlisted and commissioned therein. The governor shall have power to alter, divide, annex, consolidate, disband or reorganize any organization or corps and create new organizations or corps when required by the provisions of this chapter, and he shall have power to change the organization of any organization or corps so as to conform to any organization, system of drill or instruction now or hereafter adopted by the army of the United States, or prescribed by the laws of the United States, for the government of the militia, and for that purpose the number of officers and non-commissioned officers of any grade in any organization or corps may be increased to the extent made necessary by the new positions thus created. The governor shall have power to fix, from time to time, and to alter the maximum number of enlisted men which shall form part of any organization, irrespective of but not exceeding the maximum prescribed therefor in this chapter. The governor shall have power, in case of war, insurrection, invasion, or imminent danger thereof, to increase the maximum now established by law, and to organize the same, with the proper officers, as the exigencies of the service may require.

§ 20. ORGANIZATION.] The military units of the national guard shall be composed and organized as follows:

Infantry—The minimum strength of a company shall be as follows:

One captain,
One first lieutenant,
One second lieutenant,
One first sergeant,
One Q. M. sergeant,
Four sergeants,
Six corporals,
Two cooks,
Two musicians,
Forty-two privates.
Total enlisted (minimum), fifty-eight.

The minimum strength of a battalion shall be as follows:

One major,
One adjutant (first lieutenant).

One Q. M. and commissary (second lieutenant).
One sergeant major,
Four companies.

The minimum strength of a regiment shall be as follows:
One colonel,
One lieutenant colonel,
One adjutant (captain),
One quartermaster (captain),
One commissary (captain),
One assistant inspector of small arms practice (captain),
One chaplain (captain),
One regimental surgeon (major),
Two assistant surgeons (captains),
One sergeant major,
One Q. M. sergeant,
One commissary sergeant,
Two color sergeants.

Band, twenty-eight enlisted—
One chief musician,
One principal musician,
One drum major,
Four sergeants,
Eight corporals,
One cook,
Twelve privates,
Three battalions.
Total enlisted (minimum), seven hundred thirty-two.

§ 21. FIELD ARTILLERY.] The minimum strength of a battery shall be as follows:
One captain,
Two first lieutenants,
Two second lieutenants,
One first sergeant,
One Q. M. sergeant,
One stable sergeant,
Six sergeants,
Twelve corporals,
Three cooks,
One chief mechanic,
Four mechanics,
Two musicians,
One hundred and two privates.
Total enlisted men (minimum), one hundred thirty-three.

§ 22. HOSPITAL CORPS.] The hospital corps shall consist of sergeants of the first class, sergeants, corporals, privates of the first class and privates, in such number that there shall be enlisted not to exceed one sergeant of the first class, four sergeants, five corporals, twenty privates of the first class, and privates for each regi-

ment of infantry; and for each separate battalion not to exceed one sergeant of the first class, two sergeants and six privates, first class, and privates; for each separate battery of field artillery, one corporal and two privates, first class, and privates.

§ 23. COMMISSIONS.] All officers shall be commissioned by the governor, but no one shall be commissioned unless the conditions set forth in the next two sections have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissoined and shall have taken the oath of office. The acceptance of a commission in the militia of this state shall be deemed a resignation by the person accepting the same of all other commissions held by him in such militia. Nothing herein shall apply to or affect the acceptance and holding of brevet commissions or appointments as aides-de-camp to the governor.

§ 24. ELIGIBILITY REQUIRED TO RECEIVE A COMMISSION.] Commissioned officers must be citizens of the United States and of the age of twenty-one years and upwards. No person who has been expelled or dishonorably discharged from any military organization of the state shall be commissioned unless he has re-enlisted and subsequently served as provided in this chapter. No person shall be commissioned unless he shall possess the additional requirements herein prescribed for the particular office to which he is to be commissioned. A brigadier general at the time of his appointment must be an officer in active service in the national guard of this state of the grade of field officer, and for five successive years immediately preceding his appointment he must have been in active service in said national guard as a commissioned officer. A colonel of a regiment, at the time of his appointment, must either be an officer in active service in the national guard of this state, and for three successive years immediately preceding his appointment must have been in active service in said national guard as a commissioned officer, or, if not in active service at the time of his appointment, must have had prior service of at least six years in the national guard of this state, or in the army of the United States, or in both combined, as a commissioned officer. A lieutenant colonel and major of the line, at the time of his appointment, must either be an officer in active service, and for two successive years immediately preceding his appointment must have been in active service in the national guard of this state, as a commissioned officer, or, if not in active service at the time of appointment, must have had prior service of at least six years in the national guard of this state, or in the army of the United States, or in both combined, as a commissioned officer. Staff officers or officers below the rank of brigadier general, except medical officers and chaplains, must have served one year immediately preceding their appointments in the national guard of this state. Staff officers of the brigadier general, except judge advocates, surgeons and engineers, must be selected from the commissioned officers in active service in the national guard of this state, who, for

one year immediately preceding their appointments, have been in active service in such national guard as commanding officers. A judge advocate must be a counsellor at law of the supreme court of this state of at least ten years' standing if of the grade of lieutenant colonel; of at least five years' standing if of the grade of major. Surgeons and assistant surgeons must be graduates of an incorporated school of medicine, and of at least fifteen years' practice if of the grade of colonel; of at least ten years' practice if of the grade of lieutenant colonel; of at least five years' practice if of the grade of major; of at least three years' practice if of the grade of captain; and of at least two years' practice if of the grade of first lieutenant. An engineer officer of the national guard must have been educated as a military or civil engineer. A signal officer must have a knowledge of signaling, telegraphy, topography and map making. A chaplain must be a regularly ordained minister of some religious denomination.

§ 25. EXAMINATION.] Before receiving a commission consequent upon an original appointment or election, or before being commissioned to a higher grade as a result of promotion, every officer above the rank of first lieutenant must have passed a satisfactory examination before a board as to his knowledge of military affairs, and general knowledge and physical and other fitness for the service, and any one failing to pass such examination shall not be eligible for an office in the militia of the state, or for promotion for the period of one year from the date of such failure. Judge advocates and medical officers shall be examined as to their general and professional knowledge and fitness for the service only. The following are exempt from examination: General officers, chaplains and those enlisted men who may be commissioned by brevet, and upon the completion of twenty-five years of good and faithful service as hereinafter provided. First and second lieutenants shall be examined by the judge advocate general.

§ 26. EXAMINING BOARD.] Boards of examination under the preceding section shall be appointed by the governor or caused by him to be appointed for the national guard by the commanding officer. Such boards shall consist of not less than four officers, one of whom shall be a medical officer, who shall take part only in the physical examination of the officer, and such board shall have the same power to take evidence and administer oaths and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court martial.

§ 27. ELECTED OFFICERS.] The adjutant general shall have personal charge of his office at the state capitol, and shall be appointed by the commander in chief from the commissioned officers of the national guard of this state, and such adjutant general shall have been a commissioned officer of the field or line in active service in the guard of this state for a period of at least three years imme-

diately preceding his appointment, and such appointee shall be the officer highest in rank who will accept such appointment, and the judge advocate and paymaster general shall be appointed from the commissioned officers of the national guard of this state, each of whom shall have been a commissioned office in the national guard of this state for a period of at least three years immediately preceding such appointment; provided, that on the expiration of the term of office of the adjutant general he shall not be eligible for reappointment, but shall be placed on the retired list. Colonels and majors of battalions shall be appointed according to seniority, and captains and lieutenants of batteries or companies shall be elected by members of these organizations who shall have performed during the period of not more than twelve months immediately preceding the election (if such organization has been in existence for such period), at least sixty per cent of the duty required of them; provided, that if an organization shall not have been in the service for a period of twelve months immediately preceding the date of election, then those voting shall be required to have performed sixty per cent of duty for the time organized.

§ 28. APPOINTED OFFICERS.] The brigadier general shall be appointed by the governor according to seniority. The officers on the staff of the brigadier general, the field officers of the line, officers of the signal corps, the extra officers allowed to regiments and battalions for staff duty, surgeons and assistant surgeons of regiments, assistant surgeons of separate batteries or companies and chaplains shall be appointed by the governor upon the recommendation of their immediate commanding officers. In case of original appointments from civil life the selection shall be made by the governor upon the recommendation of their immediate commanding officers.

§ 29. ELECTIONS.] The adjutant general shall issue orders for the election of all elective officers and shall detail an officer to preside thereat who shall give or cause to be given at least five days' notice to all the qualified voters when and where and for what office the election is to take place. Such notice shall be served on the persons entitled to vote at such election in the same manner as warnings for duty are given. The person or persons serving such notice shall make returns of the persons notified and of the manner of service. The return, if made by a commissioned officer, shall be authenticated by his certificate on honor; if by a non-commissioned officer, by the oath of the person making such service. The oath may be administered by any person authorized to take the acknowledgment of deeds or by any commissioned officer, and such return shall be presented to the officer directed to preside at such election before the polls for such election shall be opened. The commanding officer of the organization in which such election is held shall, before the polls are opened, present to the officer directed to preside, a list of the persons qualified to vote thereat and a list of persons disqualified, with a statement of the facts constituting such disqualification.

of a regiment, from one company to another, by the commanding officer of such regiment or battalion; from one regiment or battalion not part of a regiment, signal corps, battery or separate company, to another in the same brigade, by the commanding officer of the brigade. Non-commissioned officers must be returned to the ranks before they can be transferred.

§ 41. NON-COMMISSIONED OFFICERS.] Commanding officers of regiments and of battalions not part of regiments shall appoint and warrant the non-commissioned staff officers of their respective regiments or battalions, and they shall in their discretion, warrant the non-commissioned officers of the batteries and companies of their respective regiments and battalions from the members thereof, upon the written nomination of the commanding officers of the batteries and companies, respectively. In batteries and companies not part of a regiment or battalion and in signal corps, the non-commissioned officers shall be warranted by the commanding officer of the brigade, in his discretion, from the members thereof, upon the written nomination of the commanding officer of the battery, company, or signal corps. To be eligible for appointment as sergeant, first class, of the hospital corps, a candidate must be a registered pharmacist. A sergeant of the hospital corps must be appointed from the hospital corps. The officer warranting a non-commissioned officer shall have power to reduce to the ranks, for good and sufficient reasons, the non-commissioned officers named in this section, but such as were enlisted as non-commissioned officers shall be discharged. Non-commisioned officers who shall be dropped vacate their positions.

§ 42. DROPPING FROM THE ROLLS.] An enlisted man who shall remove his residence to such distance from the armory of his organization as to render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found, or who shall be expelled from his organization in accordance with by-laws lawfully adopted, may be dropped from the rolls of his company, battery or signal corps by order of the commanding officer of the brigade, regiment or battalion not part of a regiment.

§ 43. TAKING UP FROM DROPPED.] An enlisted man dropped by reason of removal may be taken up at any time within three years after such removal, in his former or any other organization, obtaining in the latter case first the written permission of his former commanding officer approved by the officer upon whose order he was dropped. An enlisted man dropped for removal may be taken up at any time after three years after such removal, upon his own application, approved by the officer upon whose order he was dropped, or his successor, after passing a physical examination. The taking up shall be done under the orders of any officer who is authorized to order the dropping of men, and men thus taken up shall receive credit for the time served before having been dropped.

§ 44. RETIREMENT.] The governor may appoint enlisted men and commission them, without examination, second lieutenants by brevet, upon the recommendation of their respective commanding officers, and place them upon the retired list at the same time, provided they have well and faithfully served the state in the national guard for a period of twenty-five years.

§ 45. DISCHARGES.] An enlisted man who has not returned all the public property for which he is responsible shall, under no circumstances, receive a full and honorable discharge. A discharge, or an honorable discharge, at the discretion of the officer discharging him, shall be granted to the following: A non-commissioned staff officer or a non-commissioned officer, who, had he not been enlisted as such, would be reduced to the ranks; an enlisted man at his own request, provided he assign sufficient and valid reason for such request; an enlisted man who by reason of disability is no longer able to perform his military duties properly; an enlisted man who by the reduction of his regiment or battalion has become surplus, or whose signal corps, battery or company shall be disbanded, provided he is not entitled at the time to a full and honorable discharge; an enlisted man who has served the time for which he enlisted or re-enlisted and is not entitled to a full and honorable discharge. A full and honorable discharge shall be granted to the following: An enlisted man who shall have performed in each year at least sixty per cent of the duty his signal corps, battery company, company or battalion not part of a regiment, or regiment has been required by law and orders to perform during the term of his enlistment or re-enlistment, or during his total service in case the same has been extended beyond the term for which he enlisted. An enlisted man who fails to perform sixty per cent of duty during any year of his service may continue in service at the option of his commanding officer and make up such deficiency. An enlisted man who continues in service after the expiration of his term of enlistment or re-enlistment shall, in case he desires a discharge, give fifteen days' notice of application therefor to the officer authorized to grant the same, and such officer may, in his discretion, grant such discharge forthwith or hold the same until the expiration of said fifteen days. An enlisted man shall be held for service until his discharge is granted and issued. Dishonorable discharges shall be given to the following: An enlisted man whose immediate commander applies to have him discharged for the good of the service, after giving him ten days' notice of such application and an opportunity to be heard in defense of his conduct. The discharges mentioned above shall be granted to the commanding officer of the regiment or battalion not part of a regiment in case of signal corps, separate batteries and separate companies, by the commanding officer of the brigade to which they are attached. Enlisted men may be dishonorably discharged pursuant to the sentence of a general court martial.

§ 46. WAR SERVICE.] For all purposes under this act, officers and enlisted men of the active militia who entered the United States

service in the Spanish-American war, or other war, shall, on reentering the active militia, be entitled to credit for time served in the forces of the United States in that war, as if this service had been rendered in the active militia.

§ 47. RESPONSIBILILTY FOR EFFICIENCY.] The officer commanding the national guard may cause those under his command to perform any military duty and shall be responsible to the governor for the general efficiency of the national guard and for the drill, instruction, small arms and artillery practice, movements, operations and care of the troops. Commanding officers of organizations shall be responsible to their immediate commanders for the equipment, drill, instruction, movements, and efficiency of their respective commands. All commissioned officers and enlisted men shall be responsible to their immediate commanding officers for prompt and unhesitating obedience, proper drill and the preservation and proper use of the property of the state or organization in their possession.

§ 48. DRILLS AND PARADES.] Officers and enlisted men of each battery and company shall assemble for and undergo drill and instruction at company, battalion, or regimental armories, or battery armories or rendezvous, or for target practice not less than twenty-four times during each calendar year preceding the annual allotment of funds under section 1661, revised statutes of the United States, as amended. During the same period there shall be at least one inspection of each battery and company by an officer of the national guard, or by an officer of the regular army of the United States, at such time as the governor may direct. In addition to such drill and parades, the commanding officer of any organization may require the officers and enlisted men of his command to meet for parade, drill or instruction at such times and places as he may appoint.

§ 49. PRACTICE MARCHES REQUIRED.] Each battery or company not especially excused by the governor will be required to participate for at least five consecutive days annually in practice marches or camps of instruction, under such regulations as the governor may prescribe, and under such instructors as he may appoint.

§ 50. SMALL ARMS PRACTICE.] To encourage marksmanship, the adjutant general is authorized to offer annually a state decoration to those who shall excel in small arms practice; a brigade prize, not exceeding one hundred dollars in value for competition among the organizations of a brigade, armed with rifle or carbine; a state prize and three prizes of the value of one hundred dollars, seventy-five dollars and fifty dollars respectively, to be awarded to the three companies having the highest general figure of merit. The adjutant general may also in his discretion, provide suitable decorations and prizes for proficiency in practice with light and heavy guns. All such prizes to be competed for under regulations prescribed by the adjutant general.

§ 51. CONDUCT OF COMMANDING OFFICER IN AID OF CIVIL AUTHORITIES.] In case of any breach of the peace, tumult, riot or resist-

ance to process of this state, or imminent danger thereof, a sheriff of a county, or mayor of a city, may call for aid upon the commanding officer of the national guard stationed therein or adjacent thereto. Such call shall be in writing. The commanding officer upon whom the call is made shall order out, in aid of the civil authorities, the military force or any part thereof under his command, and shall immediately report what he has done and all the circumstances of the case to the governor and the commanding officer of the national guard. If it appears to the governor that the power of the county is not sufficient to enable the sheriff to preserve the peace and protect the lives and property of the peaceful residents of this county, or to overcome the resistance to process of this state, the governor must, on the application of the sheriff, order out such military force from any other county or counties as is necessary. When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, it must obey the orders in relation thereto of the civil officer calling it out and render the required aid. The orders of the civil officer may extend to a direction of the general or specific object to be accomplished and the duration of service by the active militia, but the tactical direction of the troops, the kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil authorities are left solely to the officers of the active militia.

§ 52. IN CASE OF INSURRECTION OR INVASION.] In case of insurrection or invasion or imminent danger thereof within the limits of any command, the senior commanding officer of such command shall order out for the defense of the state the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the governor and the commanding officer of the national guard.

§ 53. WARNING FOR DUTY.] Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order, or reading the order to the person warned, or by delivering a copy of such order to such person or by leaving a copy of such order at the last known place of abode or business of such person with some one of suitable age and discretion, or by sending a copy of such order or a notice containing the substance thereof to such person by mail, directed to him at his last known place of abode or business, or to the postoffice nearest thereto. Such warning may be given by any officer or non-commissioned officer. The officer or non-commissioned officer giving such warning shall make a return thereof containing the names of the persons warned, and the time, place and manner of warning. Such return shall be verified by oath, which may be administered by any commanding officer; such verified return shall be as good evidence, on the trial of any person returned as a delinquent of the facts therein stated, as if such officer or non-commissioned officer had testified to the same before the delinquency court on such trial.

Every commanding officer shall make the like return on honor and with like effect, of every delinquency and neglect of duty of his officers and non-commissioned officers, and also of every enlisted man who shall refuse or neglect to perform such military duty as may be required.

§ 54. EXCUSES FROM DUTY.] The officer ordering any military duty shall have the power to excuse any officer or enlisted man for absence therefrom upon good and sufficient grounds.

§ 55. DISCIPLINE AND EXERCISE.] The system of discipline and exercise of the national guard of this state shall conform generally to that of the army of the United States as it is now or may hereafter be prescribed by the president, and to the provisions of the laws of the United States, except as otherwise provided in this chapter.

§ 56. MILITARY COURTS.] The military courts of this state shall be:

1. General courts-martial.
2. Garrison courts-martial.
3. The summary court.
4. Courts of inquiry.
5. Delinquency courts, which are of two kinds: (1) For officers; (2) for enlisted men.

The constitution and jurisdiction of courts-martial, the form and manner in which the proceedings of military courts shall be conducted and recorded, and the forms of oath and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in revision shall be governed by the articles of war and the law and procedure of the courts-martial of the United States, except as hereinafter provided.

§ 57. INDEMNITY FOR ACTION OF MILITARY COURTS.] No action or proceeding shall be prosecuted or maintained against a member of a military court or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of a fine or penalty, or the execution of any warrant, writ, executions, process, or mandate of a military court.

§ 58. PRESUMPTION OF JURISDICTION.] The jurisdiction of the courts and boards established by this chapter shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

§ 59. FINES.] All fines imposed by sentence of the afore-named courts shall be collected by the presiding officer and remitted without delay to the adjutant general, who will remit them to the state auditor on the last days of February, April, June, August, October and December of each year, with a statement of the source from which collected. All sums thus collected as fines shall be credited to the general fund for maintenance of the militia and expended as authorized therefor; provided, further, that such portion of the

sentence imposed by the afore-named courts as prescribes confinement shall be executed in such county jails as the reviewing authority may direct, and the expenses of such confinement shall be borne by the commonwealth. A commitment in writing shall be executed by the presiding officer of the court to the sheriff or jailer where temporary restraint is deemed necessary, but where the confinement is the result of the confirmed action of the reviewing authority an official copy of the order publishing the sentence of the court shall be furnished the sheriff or jailer. The presiding officer is empowered to accept a bond for the delivery of the accused upon demand after the final action of the court, and pending the action of the reviewing authority, when his jurisdiction terminates. This bond will not be accepted in capital cases, nor for a less sum than twice the amount involved; provided, further, that the sentence of any courts-martial shall not, in time of peace, exceed that prescribed by the president for like offenses and that these substitutions obtain: two days' confinement for one dollar forfeiture or the reverse.

§ 60. COURTS-MARTIAL, GOVERNOR INSTITUTES. NUMBER TO CONSTITUTE.] The governor is empowered to institute general courts-martial, garrison courts-martial, summary courts-martial, courts of inquiry and delinquent courts, and to review the proceedings of each of these courts. A general court-martial shall consist of not less than three nor more than seven commissioned officers and a judge advocate. The garrison court-martial shall consist of not less than one nor more than three commissioned officers and a judge advocate. The summary court-martial shall consist of one commissioned officer. Courts of inquiry may be instituted by the commander in chief of not more than three commissioned officers, whose duties will be defined with the order convening such court. Delinquent courts shall consist of not more than three nor less than one commissioned officer.

§ 61. ORGANIZATIONS.] All organizations shall be provided by the state with such arms, equipments, colors, camp and garrison equipage, books of instruction and of record, and other supplies as may be necessary for the proper performance of the duty required of them by this chapter; and each organization shall keep such property in proper repair and in good condition.

§ 62. COMMISSIONED OFFICERS.] Every commissioned officer shall provide himself with the arms, uniforms and equipments prescribed and approved by the governor.

§ 63. ENLISTED MEN.] Every enlisted man who enters the service of the state for three years shall be furnished by the state with a service uniform corresponding in make and general appearance to the service uniform of the United States army.

§ 64. RESPONSIBILITY FOR PUBLIC PROPERTY.] Every officer and enlisted man to whom public property of the state has been issued shall be personally responsible to the state for such property, and no one shall be relieved from such responsibility, except it be shown

to the satisfaction of the governor that the loss or destruction of such property was unavoidable and in no way the fault of the person responsible for the same; in all other cases the value of the property lost or destroyed shall be charged against the person at fault or to the organization to which it had been issued, and such person or organization, if not relieved from such charge by the governor, shall pay the value of such property to the adjutant general within two years after such loss or destruction. The value of lost or destroyed property and the person or organization to be charged therewith shall be determined by a board to consist of an inspector on the staff of the commanding officer of the national guard and the commanding officer of the organization in which such property is lost. In case of disagreement, such value shall be fixed by the commanding officer of the national guard.

§ 65. PURCHASE OF UNIFORMS AND EQUIPMENTS.] All uniforms and equipments used by the national guard of this state shall be procured by the adjutant general from the United States government, or other source, and shall conform to those in use by the regular army of the United States.

§ 66. BOARD OF ARMORY SUPERVISORS CREATED.] The governor, adjutant general and colonel commanding the regiment are hereby constituted a board of armory supervisors, whose duty it shall be to approve the selection of all armory sites and the purchase of buildings thereon; to approve the plans and specifications for the erection of all armories, and to audit and approve all bills, claims and accounts in connection with the construction or purchase of all armories before such bills, claims and accounts shall be paid, and to perform such other duties as the provisions of this act require.

§ 67. APPROPRIATION.] To every company, battery or regimental band of the North Dakota national guard who shall have first deposited with the state treasurer the sum of two thousand dollars as an evidence of good faith, and shall have conveyed to the state of North Dakota by a good and sufficient deed of warranty the title to a site for an armory, which site shall have first been approved by the board of armory supervisors, or shall have conveyed to the state an armory site with armory buildings thereon, such buildings to be of the value of not less than seven thousand dollars, and to be first approved by the board of armory supervisors, there is hereby appropriated the sum of five thousand dollars; provided, that only one such appropriation shall be made for armory purpose in any one city or town; and provided, further, that no more than thirteen state military organizations shall receive the benefit of this act; and provided, further, that no more than three state military organizations shall receive appropriations in the amount specified in the year A. D. 1908, and two in each year thereafter, until the thirteen state military organizations shall each have received an appropriation of five thousand dollars; and provided, further, that

the board of armory supervisors shall designate which state military organizations shall receive aid in any one year and in determining which shall receive aid first, they shall take into consideration the proficiency of the military organization asking for aid and its needs; and provided, further, there is hereby appropriated out of the state treasury in the year A. D. 1908 the sum of fifteen thousand dollars, and the sum of ten thousand dollars annually thereafter for five years.

§ 68. DUTY OF STATE TREASURER.] The state treasurer shall keep a separate account with each company, battery or regimental band that shall avail itself of the provision of this act, crediting the same with two thousand dollars deposited by the company, battery or regimental band with the state treasurer, together with the appropriation made under the provisions of this act, and all bills for the construction or purchase of armories, or the paying of debts or mortgages against armories shall, after being approved, be paid out of the said account or fund upon the warrant of the state auditor.

§ 69. TRANSFER OF ARMORIES WHEN COMPANY, BATTERY OR REGIMENTAL BAND IS MUSTERED OUT OF SERVICE.] Whenever any company, battery or regimental band which has availed itself of the provisions of this act and has received the appropriation provided herein, shall be mustered out of the service of the state and it shall appear that there is no probability of a new company, battery or regimental band being organized in the city or town in which the armory is located, then and in that case the board of armory supervisors shall have the authority, and are hereby empowered to transfer the said property to the municipality in which the same is located for public purposes upon the repayment to the state of the said appropriation provided in this act, without interest.

§ 70. PROVIDING FOR MORTGAGING ARMORIES TO THE STATE WHEN OWNED BY ANY COMPANY, BATTERY OR REGIMENTAL BAND.] Whenever any such company, battery or regimental band shall own any site with armory buildings thereon of the value of ten thousand dollars, exclusive of the value of the land, and such buildings and site have been approved by the board of armory supervisors as sufficient and desirable for armory purposes, then, such company, battery or regimental band may, with the approval of the board of armory supervisors, obtain the benefits of the appropriation hereinbefore provided by executing to the state of North Dakota a mortgage on such property for the sum of five thousand dollars, payable on demand and during the life of said mortgage said building and site shall be under the control and supervision of such company, battery or regimental band.

§ 71. REPEAL.] Sections 1789, 1790, 1791, 1792 and 1793 of the revised codes of 1905 are hereby repealed.

§ 72. PAY AND ALLOWANCES. DUTY PAY.] Each officer and enlisted man ordered for duty by the governor, or under his authority by the commanding officer of the national guard, shall receive

the duty pay herein specified for every day actually on duty, except when so ordered for inspection, muster or small arms practice, or parade or review or field service not extending beyond one day: A musician or private, seventy-five cents; a corporal, ninety cents; an assistant hospital steward, color bearer or a sergeant, one dollar; a first sergeant, guidon sergeant, veterinary sergeant, drum major, band master, hospital steward, ordnance sergeant, commissary sergeant, quartermaster sergeant, sergeant major, signal sergeant or a signal sergeant of a battalion of light artillery, one dollar and twenty cents; a first class sergeant of a signal company, one dollar and twenty-five cents; a sergeant of a signal company, one dollar and twenty-five cents; a corporal of a signal company, ninety cents; a first class private of a signal company, seventy-five cents; a non-commissioned officer performing the duties of a grade higher than his own shall receive the pay of such higher grade; a private acting as a non-commissioned officer shall receive the pay of the grade in which he is acting; a lieutenant, one dollar and seventy-five cents; a captain or company commander, two dollars; a major and a lieutenant colonel, two dollars and twenty-five cents; a colonel or commanding officer of a regiment or of a battalion not part of a regiment, three dollars; a brigadier general, four dollars; staff officers, the pay of [officers] of the line of equal grade; chaplains, the pay of captains. When on duty or assembled therefor in case of riot, tumult, breach of peace, insurrection, invasion, war, whenever called in aid of the civil authorities or when engaged in actual field or camp service for instruction as contemplated in section fourteen of the act of congress approved January 21, 1903, commissioned officers shall be entitled to and shall receive at least the same pay as commissioned officers of the army of the United States of equal grade. Each officer and enlisted man, mounted and equipped, shall be paid a reasonable compensation per day for each horse actually used by him.

§ 73. PAY WHEN AIDING THE CIVIL AUTHORITY.] All officers and enlisted men, while on duty or assembled therefor, pursuant to the orders of the governor of the state, sheriff of a county, or mayor of a city, or any other civil officer authorized by law to make such a demand on the military forces of the state, in case of riot, tumult, breach of the peace, resistance to process, or whenever called upon in aid of civil authorities, shall receive the pay set forth in section seventy-two of this chapter; and such compensation and the necessary expenses incurred in quartering, caring for, warning for duty, and transporting and subsisting the troops, as well as expenses incurred for pay, care and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, as set forth in section eighty-three of this chapter, shall be paid by the county where such service is rendered. The county treasurer of such county shall, upon presentation to him of vouchers and pay-rolls for such expenses and compensation, certified by the officers

commanding such forces, and approved by the commanding officer of the brigade, forthwith execute, in behalf of and in the name of such county, a certificate or certificates of indebtedness for the money required to pay such vouchers and payrolls; such certificates shall bear interest at the rate of not to exceed six per cent per annum and shall be made payable on the first day of February following the expiration of two months from their issue, and the amount thereof shall be raised in the next tax budget of said county succeeding their issue, and applied to the payment of such certificates. Said county treasurer shall sell such certificates at public or private sale, and apply the proceeds thereof to the payment of such expenses and compensation. Any county treasurer or public officer who shall neglect or refuse to perform any of the duties required by this section shall be personally charged with the cost and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in such action or proceeding, to be fixed by the court.

§ 74. PAY OF OFFICERS SERVING ON BOARDS, COMMISSIONS AND COURTS.] All officers detailed to serve on any board or commission ordered by the governor, or under his authority by the commanding officer of the national guard, or on any court of inquiry, or delinquency court, ordered by proper authority in pursuance of any provision of this chapter, shall be paid a sum equal to one day's duty pay for each day actually employed in such board or court, or engaged in the business thereof, or in traveling to and from the same. The sum shall in no case exceed ten days' pay and actual traveling expenses and subsistence, unless, upon application of the judge advocate of a court-martial or the presiding officer of a delinquency court, or the presiding officer of the board, the officer appointing the court or board has authorized such court or board to sit for a longer period, or in case of such delinquency court, the governor or the officer ordering such court has authorized such court to sit for a longer period than ten days. An officer detailed to serve on a delinquency court for the trial of enlisted men shall be paid for each day actually employed therein, engaged in the business thereof, or in traveling to and from the same, and traveling expenses and subsistence when such court shall be held at a place other than the city or town of his residence. An officer whom a warrant for the collection of fines, dues, or penalties under the sentence of a military court is delivered shall be paid, by retaining to his own use twenty-five per cent of the fines, dues or penalties collected by him. Said percentage shall be taxed by the officer issuing the warrant and indorsed thereon and added to the amount collectible to satisfy the sentence of the court. In addition to this percentage a marshal of a military court shall be paid two dollars for each day actually employed in the execution of the duties required of him, and mileage or actual necessary traveling expenses while

engaged in executing any process or mandate of a military court. Mileage shall be computed at the rate of ten cents for each mile necessarily traveled going and returning to serve any process or mandate of a military court, the distance to be computed from the place where it is served to the place where it is returnable.

§ 75. PAYMENT OF EXPENSES OF DELINQUENCY COURTS FOR ENLISTED MEN.] The compensation and necessary expenses of the officer holding a delinquency court for enlisted men, and of the clerk and marshal thereof, and the actual expenses of the court for the time engaged in the trial of enlisted delinquents, and the necessary business connected therewith, shall be paid by the organizations of which the delinquents are members, and to whose military funds fines collected from such delinquents are paid, from the military fund of such organization, in the same manner as other accounts are paid from such fund.

§ 76. PAY OF OFFICERS AND ENLISTED MEN ASSIGNED TO SPECIAL DUTY.] Any commissioned officer assigned to special duty by the governor or under his authority shall be paid duty pay for the time actually employed, and his necessary traveling expenses and subsistence, when such payment is authorized by the governor. Judge advocates shall be paid for services in bringing any suits provided for in this chapter, and for services in actions or proceedings by habeas corpus, certiorari, or otherwise, such compensation as shall be approved by the governor. All staff officers shall be paid duty pay for special service ordered by competent authority with the approval of the governor. Enlisted men, on duty under the orders of the governor, but not at the time serving with troops, shall receive duty pay, their actual traveling expenses and subsistence.

§ 77. ALLOWANCES FOR OFFICERS.] Commissioned officers shall receive annually the sum of twenty dollars, mounted officers the sum of twenty-five dollars to assist in uniforming and equipping themselves, but not until they have performed eighty per centum of all ordered duty, and been in active service as such a calendar year of twelve months, beginning with the first day of January.

§ 78. PENSIONS.] Every member of the militia who shall be wounded or disabled while in the service of the state, in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection, or imminent danger thereof, or whenever called upon in aid of the civil authorities, shall be taken care of and provided for at the expense of the state, and every such member who shall be wounded or disabled, or has been so disabled in the performance of any actual service of this state within ten years preceding the application for a pension under this act, in cases of riots, tumults, breach of the peace, resistance to process, invasion, insurrection or imminent danger thereof, or whenever called upon in aid of the civil authorities, or while engaged in any lawfully ordered parade, drill, encampment, or inspection, shall upon proof of the fact, as

hereinafter provided, be placed on the roll of invalid pensioners of the state, and shall receive, out of any moneys in the treasury of the state not otherwise appropriated, upon the audit of the adjutant general and approval of the governor, the like pension or reward that persons under similar circumstances receive from the United States; and in case of any wound, injury or disease causing death, then the widow or minor children of such member of the militia shall receive such pension and reward from the time of receiving the injuries on account of which such pension or reward is allowed.

§ 79. PROOF REQUIRED. STRIKING FROM ROLL.] Before the name of any person is placed upon the roll under this article, proof shall be made, under such regulations as the adjutant general may from time to time prescribe, that the applicant is entitled to such pension. The adjutant general, with the approval of the governor, shall cause to be stricken from the pension roll the name of any person whenever it appears by satisfactory proof that such name was put upon such roll through false or fraudulent representations. The adjutant general, with the approval of the governor, may increase or reduce or withdraw any pension, according to right and justice and the practice in the United States pension office.

§ 80. PENSION EXAMINERS AND EXAMINING BOARDS.] The adjutant general is authorized to appoint pension examiners, whose duty it shall be to inquire into the merits of any claim for pay and care and pension, whether pending or adjudicated, and any person so appointed shall have power to administer oaths, to orally examine witnesses, to issue subpœnas, and to take affidavit and depositions in the course of such examinations. The adjutant general shall further appoint examining boards, consisting of not more than three medical officers of the national guard, who shall under his direction make such examination of claimants as he shall require, and certify the result in such form as he shall prescribe, and any person adversely affected by the report of one medical officer shall be entitled to an examination upon his request before a board consisting of three medical officers.

§ 81. PAY AND CARE WHEN INJURED OR DISABLED IN SERVICE.] A member of the national guard who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever ordered by the governor, commanding officer of the national guard, or called in aid of the civil authorities, receive an injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or who shall without fault or neglect on his part be wounded or disabled while performing any lawfully ordered duty which shall temporarily incapacitate him from pursuing his usual business or occupation shall, during the period of such incapacity, receive the pay provided by this chapter and actual necessary expenses for care and medical attendance. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer,

to be appointed upon the application of the member claiming to be so incapacitated by the commanding officer of the brigade to which such member is attached. Such board shall have the same power to take evidence, administer oaths, issue subpœnas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. The findings of the board shall be subject to the approval of the officer convening it when the claim is payable by a county, and in all other cases to the approval of the commanding officer of the national guard. The reviewing officer may return the proceeding of the board for revision and for taking further testimony. The amount found due such member by said board to the extent that its findings are approved by the reviewing officer thereof, shall be a charge against and be paid in the manner provided in this chapter, by the county in which such duty was rendered, in every case where a county is by this chapter made liable to pay for the performance of military duty. In all other cases such sums shall be paid by this state, in like manner as other military accounts are paid.

§ 82. EXEMPTION FROM CIVIL PROCESS.] No person belonging to the active militia of the state shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

§ 83. RIGHT OF WAY. FREEDOM FROM INTERFERENCE.] Commanding officers of any portion of the active militia parading or performing any military duty in any street or highway may require any or all persons in such street or highway to yield the right of way to such militia; provided, the carriage of the United States mail, the legitimate functions of the police and the progress and operations of the hospital ambulance and fire departments and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay, or obstruct any portion of the active militia wherever parading or performing any military duty, or who shall attempt so to do, shall be guilty of a misdemeanor.

§ 84. FREE PASSAGE THROUGH TOLL GATES, ETC.] Any person belonging to the military forces of the state, going to or returning from any parade, encampment, drill, or meeting which he may be required by law to attend, shall together with his conveyance and military property of the state in his charge be allowed to pass free through all toll gates and over all toll bridges and ferries, if he is in uniform or presents an order for duty or certificate of membership in the active militia.

§ 85. EXEMPTION FROM JURY DUTY.] Every member of the active militia shall be exempt from all jury duty, provided he shall furnish the certificate of his immediate commanding officer that he has performed the duties required of him for the year immediately preceding a summons to act as a juryman, and every such member who shall have received a full and honorable discharge shall be exempt forever after from all jury duty.

§ 86. UNLAWFUL CONVERSION OF MILITARY PROPERTY. UNLAWFUL WEARING OF UNIFORMS AND DEVICES INDICATING RANK.] Any person who shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms, equipments, or other military property issued under the provisions of this chapter, and any person who shall wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank of office, such as are by law or by general regulation, duly promulgated, prescribed for the use of the active militia or similar thereto, except members of the army and navy of the United States and the national guard of this or any other state, officers of the independent military organizations so designated in section eighty-eight of this chapter, members of associations wholly composed of soldiers honorably discharged from the service of the United States and members of the order of Sons of Veterans, shall be guilty of a misdemeanor and in addition thereto shall forfeit to the people of this state one hundred dollars for each offense, to be sued for in the name of the people by a judge advocate. All monevs recovered by any action or proceeding under this section shall be paid to the adjutant general, who shall apply the same to the use of the active militia.

§ 87. TRESPASSERS AND DISTURBERS TO BE PLACED IN ARREST. LIQUORS AND HUCKSTER SALES PROHIBITED.] The commanding officer upon any occasion of duty may place in arrest during continuance thereof any person who shall trespass upon the camp ground, parade ground, armory, or other place devoted to such duty, or shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or returning from any duty.

§ 88. MILITARY PARADES BY UNAUTHORIZED BODIES PROHIBITED.] No body of men, other than the regularly organized corps of the national guard and militia and the troops of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state. No city or town shall raise or appropriate any money toward arming or equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers honorably discharged from the service of the United States or members of the order of Sons of Veterans may parade in public with firearms on Decoration Day or upon the reception of any regiments or companies of soldiers returning from such service, and for the purpose of escort duty at the burial of deceased soldiers; and students in educational institutions where military science is a prescribed part of the course of instruction may, with the consent of the governor, drill and parade with firearms in public under the superintendence of their teachers. This section shall not be con-

strued to prevent any organization authorized to do so by law from parading with firearms, nor to prevent parades by the national guard of other states. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

§ 89. SEPARATE COMPANIES.] The words "separate company," wherever used in this act, shall be construed to apply to and mean separate companies existing, organized and recognized by the governor as such, irrespective of their being now or hereafter part of a regiment or battalion and to such similar organizations as may have been since or may be hereafter created, and as may be certified by the adjutant general to be separate companies within the meaning of this section, irrespective of their being or becoming parts of a regiment or battalion.

§ 90. PROVISION AS AMENDATORY AND REPEALING STATUTES.[1] No section or provision of this chapter or any part thereof shall be deemed to be repealed, altered, or amended by any statute passed by the legislature unless such statute explicitly refers to this chapter as the military code, or by its other titles as part of the general laws or annual legislation and explicitly repeals, alters, or amends the same or some part thereof.

§ 91. DUTIES BY TITLE OF OFFICE.] The duties assigned to an officer by title in this chapter shall devolve, in case of absence or disability to command of the officer named, upon the line officer next in rank, except as otherwise provided in this chapter.

§ 92. FORMATION OF ASSOCIATION. BY-LAWS.] The officers of any regiment or battalion not part of a regiment, and members of any regiment, company, signal corps, hospital corps or field music may organize themselves into an association, of which the commanding officer shall be president, and by a vote of two-thirds of all their members, form by-laws, rules and regulations not inconsistent with this chapter and which shall conform to the system prescribed in general regulations and be submitted to the commanding officer of the national guard for his approval, and when approved by him, such by-laws, rules and regulations shall be binding upon all commissioned officers, and enlisted men therein, but they may be altered in the manner provided for their adoption, from time to time, as may be found necessary.

§ 93. VIOLATION OF BY-LAWS. EXPULSION.] For violation of by-laws, rules and regulations of associations organized pursuant to this chapter, enlisted men, in addition to trials by a military court, may also be expelled from the organizations to which they belong by a vote of the majority of all its members and upon such action being confirmed in orders by the commanding officer of the regiment, or battalion not part of a regiment, and in case of an organization not part of a regiment or battalion by the officer to whose command it is attached, the name of such person shall be stricken from the role of the organization not part of a regiment or battalion by the officer in whose command it is attached, the name of such

person shall be stricken from the role of the organization of which he is a member, his certificate of membership shall be surrendered and cancelled, and he shall cease to be a member thereof, and his time of service in the same shall not be allowed.

§ 94. RULES AND REGULATIONS.] The governor is hereby authorized to make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this act, and, as nearly as practicable, to those governing the United States army, and when promulgated shall have the same force and effect as the provisions of this chapter. Such rules and regulations shall not be repealed, altered, amended, or added to, except by the commanding officer of the national guard with the approval of the governor. The rules and regulations in force at the time of the passage of this chapter shall remain in force until new rules and regulations are approved and promulgated.

§ 95. CUSTOM AND USAGE OF THE UNITED STATES ARMY.] All matters relating to the organization, discipline and government of the national guard, not otherwise provided for in this act or in the general regulations, shall be decided by the custom and usage of the United States army or navy, respectively.

§ 96. ORGANIZATION NOT ATTACHED TO A BRIGADE.] Organizations not part of or attached to any brigade shall be under the commanding officer of the national guard for all purposes.

§ 97. REPEAL.] Sections 1714, 1715, 1716, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1732, 1733, 1735, 1736, 1738, 1739, 1741, 1742, 1743, 1744, 1745, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1782, 1783, 1784, 1785, 1786, 1788, 1794, 1795, 1796 and 1798 of the revised codes of 1905 are hereby repealed.

Approved March 6, 1909.

CHAPTER 166.

[H. B. No. 36—Price]

NATIONAL GUARD.

AN ACT to Amend Section 1787 of the Revised Codes of North Dakota, 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1787 of the revised codes of 1905 is amended to read as follows:

§ 1787. APPROPRIATION.] For the purpose of paying the expenses of the maintainance of the national guard there is hereby an-

nually appropriated the sum of twenty-five thousand dollars out of any monies in the state treasury, not otherwise appropriated, and all warrants against such appropriation shall be drawn by the state auditor upon the state treasurer, upon the voucher of the chief of supply or pay master general, certified to by the adjutant general, and approved by the governor, said sum of twenty-five thousand dollars per annum to remain subject to warrants drawn as herein provided, until expended.

Approved March 20, 1909.

CHAPTER 167.

[S. B. No. 117—Walton]

MILITARY INSTRUCTION.

AN ACT to Provide for Instruction in Military Science at the State Normal-Industrial School, Located at Ellendale.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MILITARY INSTRUCTION REQUIRED.] The state normal-industrial school is authorized and required to give theoretical and practical instruction in military science under such rules and regulations as the faculty of said institution may prescribe.

§ 2. INSPECTION BY ADJUTANT GENERAL.] Such company or companies as may be organized and drilled at said institution shall be subject to regular inspection by the adjutant general of the state of North Dakota, or by an officer detailed for that purpose.

§ 3. MUSKETS TO BE LOANED.] The adjutant general is hereby authorized to loan to said state normal-industrial school fifty muskets and accoutrements, or such part thereof as may be available, for efficiently organizing and drilling said company or companies, the adjutant general to prescribe the terms upon which such loan may be made.

§ 4. APPROPRIATION.] There is hereby appropriated out of the state treasury for said state normal-industrial school from any moneys not otherwise appropriated, the sum of one hundred fifty dollars annually for the purchase of such stores as may be necessary for target practice.

Approved March 11, 1909.

MINING

CHAPTER 168.

[S. B. No. 14—Gunderson]

MINING EXPERIMENT SUB-STATION CREATED.

AN ACT Creating and Establishing a Mining Experiment Sub-Station Under the Direction of the State School of Mines at the State University, and Providing for Its Management.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. STATION CREATED.] In order to promote the development of the mining interests, particularly with the reference to the best methods of mining and utilizing lignite coal and clays, and to give the most practical service to that portion of the state in which these resources exist, there is hereby created and established a mining experiment station, to be located at such a place as may seem best suited for the purposes herein mentioned and in accordance with the provisions of this act. Said mining experiment station shall be a sub-station in connection with the state school of mines at the state university and under the direction of the board of trustees of said institution.

§ 2. PURPOSES OF STATION. BULLETINS ISSUED.] The purpose of this mining experiment station shall be to aid in developing the mineral resources of the state, particularly the coal and clays. Actual mining and treatment of coal, clays and other mineral resources shall be conducted at this sub-station and a variety of experiments shall be carried on to determine the most scientific and best methods of mining, timbering and ventilating and preparing lignite coal and other products for the market. Special attention shall be paid to the study of prevention of losses and accidents in mining, to securing the most intelligent conservation, use and development of the mining resources of the state, to make more safe the work of mining, and to render mining property more productive; in short to carry on such practical mining experiments as will promote the general welfare of the mining industry. At this station the students of the school of mines shall be instructed during some portion of the year as to the best methods of mining and handling lignite coal, clays, etc. The best and most scientific methods of mining shall be investigated, and so far as possible, actually carried on at this station, and whenever practicable, an opportunity

shall be afforded for mine owners and workers to secure information and instruction in the most improved methods of developing and operating coal and other mines, applicable to this state. Bulletins shall be issued from time to time, giving detailed information of the experiments conducted, the results achieved, and advise as to the best methods of mining and utilizing the coal and other mineral resources of the state.

§ 3. UNDER WHOSE CONTROL.] The work of this station shall be under the general direction of the board of trustees of the state university and school of mines, and under the immediate charge of the dean of the school of mines. All receipts and expenditures shall be under the direction of the board of trustees. Coal and products of this station which are not needed for the work of the station may be turned over to the university, or any other state institution at the cost of production, but the production of coal or any other material shall be only incidental to the experimental work of the station.

§ 4. LOCATION.] This experimental sub-station shall be located on a tract of at least eighty acres of land at or near Hebron, Morton county, and underlaid by a workable vein of lignite coal, the location to be as accessible as possible and consistent with the necessary operations of such station, due consideration being given to nearness and accessibility of deposits of clays and other mineral resources of the state. In case such suitable location can be secured on lands owned by any of the state institutions or the common schools of the state, one hundred and sixty acres of such lands shall be transferred to the school of mines by the board of university and school lands and an equal amount of land now owned by the school of mines and of equal appraised value shall be transferred by such board of university and school lands to replace the land hereby transferred to such school of mines. If suitable land cannot be thus secured, a tract of at least eighty acres may be purchased, if necessary, by the board of trustees of the state university and school of mines.

§ 5. EMERGENCY.] An emergency exists in this, that there is no provision by law for such mining experiment station, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1909.

CHAPTER 169.

[S. B. No. 284—Stevens]

CORPORATION STATEMENTS.

AN ACT to Regulate the Sale and Offering for Sale of Mining Stocks or Shares Within the State of North Dakota and to Provide Penalties for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MINING CORPORATIONS TO FILE STATEMENT BEFORE OFFERING STOCK FOR SALE.] No shares or certificates of stock in any mining corporation established under the laws of this state, or any state, territory, province, country or government, shall be sold or offered for sale within this state by such corporation, or by any person, firm, association or corporation acting as agent, representative, attorney or broker for such corporation, until such corporation shall have filed in the office of the secretary of state a statement under oath, showing the financial condition of such corporation; the location of the mine or mines, owned by such corporation, with plans of the same; the amount of work done thereon; the amount of cash expended for improvements thereon and the condition of the plant and machinery connected therewith. Such statements shall be signed by the president, secretary and treasurer of such corporation and shall be verified by the oath of each of such officers to the effect that the same is in all respects true.

§ 2. FORM OF STATEMENT. FEE FOR FILING.] The statement provided for in section one of this act shall be in substantially the following form:

STATEMENT.

of the

....., a corporation organized under the laws of the state, territory or province of and operating mines located in or near the town of or mining district of, county of, state of

I.

1. Amount of authorized capital stock
2. Amount of capital stock issued
3. Amount of capital stock held by corporation
4. Amount of capital stock issued in payment of property.....
5. Amount of capital stock sold for cash
6. Amount of cash received in payment for stock

7. Value and description of property received in payment for stock

8. Amount of debts or liabilities in

(a) Bonds (stating rate of interest, and time at which bonds fall due).....

(b) Other indebtedness

9. Amount of cash on hand

10. Amount of credits and estimated value thereof:

(a) Notes

(b) Bills receivable

(c) Accounts receivable

11. Present value of property of corporation

12. Number and amount of dividends declared

13. Rate of last dividend, and date when same was declared and paid

II.

1. Location of property owned (to be accompanied by plans of the same)

2. Amount of work done on the property, showing extent of development

3. Amount of cash expended for improvements on said properties

4. Description of plant and machinery, and their present condition

Dated at this day of 190...

.....President.

.....Secretary.

.....Treasurer.

State of

ss.

County of

On this.....day of....., 190...., personally appeared president, ... secretary and treasurer of the and who being by me duly sworn did each for himself depose and say that the foregoing statement by them signed is in all respects correct, true and accurate.

.....

Notary Public.

A fee of twenty-five dollars for filing such statement shall be paid to the secretary of state by such corporation, at the time such statement is presented for filing.

§ 3. SECRETARY OF STATE TO KEEP DOCKET OPEN TO PUBLIC INSPECTION.] It shall be the duty of the secretary of state to provide and keep in his office and open to public inspection a docket with appropriate blanks and indices, and to forthwith and as soon as the

statement provided for in section one of this act is filed in his office, enter therein the name of the corporation filing the same, together with a copy of the statement.

§ 4. PUNISHMENT FOR VIOLATION OF PRECEDING SECTIONS.] Any person who sells or offers for sale within this state any shares or certificates of stock in any mining corporation which has not filed a statement in accordance with the provisions of sections one and two of this act, is guilty of a misdemeanor.

§ 5. PUNISHMENT FOR VIOLATION OF PRECEDING SECTIONS BY CORPORATIONS.] Any corporation or officer or agent thereof, or any broker, selling or offering for sale shares or certificates of stock in any mining corporation which has not filed the statement in accordance with the provisions of sections one and two of this act is guilty of a misdemeanor, and in addition thereto shall forfeit to the people of the state the sum of one thousand dollars for each and every offense, to be recovered in an action to be brought by the attorney general. The secretary of state shall report to the attorney general at least once in three months the names of all agents, corporations or brokers who to his knowledge are engaged in the sale of shares or certificates of stock in mining corporations which have failed to comply with the provisions of this act. The moneys forfeited by this section, when recovered, shall be paid into the state treasury, except, that where the fact of the violation of this act is brought to the knowledge of the attorney general by a person other than a person holding a public office within this state, one-half of the moneys recovered for a violation of this act shall be paid to such person so furnishing the information and knowledge of such violation to the attorney general as aforesaid.

§ 6. MAKING FALSE STATEMENT.] Any officer of a mining corporation who, in making the statement prescribed by section two of this act, willfully makes any statement which he knows to be false, is guilty of a misdemeanor.

§ 7. EMERGENCY.] An emergency exists in that there is no law in North Dakota regulating the manner in which mining stocks and shares shall be sold, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1909.

OATHS

CHAPTER 170.

[H. B. No. 165—Cunningham]

OFFICERS TO ADMINISTER OATHS.

AN ACT to Amend Section 533 of the 1905 Revised Codes of North Dakota, Relative to the Authorizing of Officers to Administer Oaths.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 533 of the revised codes of North Dakota, is amended to read as follows:

§ 533. OFFICERS AUTHORIZED TO ADMINISTER OATHS.] The following officers are authorized to administer oaths:

Each judge of the supreme court.

Each judge of the district court.

The clerk of the supreme court and his deputy.

Clerks of the district court, clerks of the county court with increased jurisdiction, county auditors and registers of deeds and their deputies within their respective counties.

County commissioners within their respective counties.

Judges of the county court.

Public administrators within their respective counties.

Justices of the peace within their respective counties.

Notaries public anywhere in the state upon complying with the provisions of sections 545 and 546.

City clerks or auditors, township clerks and village recorders within their respective cities, townships and villages.

Each sheriff and his deputy within their respective counties in the cases provided by law.

Other officers in the cases specially provided by law.

Approved March 13, 1909.

OIL INSPECTION

CHAPTER 171.

[H. B. No. 108—Sorlie]

INSPECTION OF OIL AND GASOLINE.

AN ACT Providing for the Inspection of Refined Petroleum, Oils and Gasoline, Defining Ports of Entry, Appointment of Oil Inspector and Deputies and Fixing the Salary of the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INSPECTOR APPOINTED. SALARY. DEPUTIES AND SALARY OF.] The governor shall by and with the advice and consent of the senate, appoint a suitable person, a citizen of this state, who is not engaged directly or indirectly in the manufacturing, dealing or vending of illuminating oils, whose title shall be state inspector of oils, and whose term of office shall be two years, commencing on the first Tuesday in April succeeding his appointment, or until his successor shall be appointed and shall qualify. Said inspector may appoint deputy inspectors at all points where oil carrying roads enter the state, whose salaries shall be as hereinafter provided. The said state inspector of oils and his deputies shall have the right, and it shall be his duty to enter into or upon the premises of any manufacturer, dealer, vendor of these refined petroleum oils or gasoline, at any time, for the inspection of such oils or gasoline, and to inspect any books or papers of such manufacturers, dealers, vendors or railway company pertaining to the shipment or sale of such oils or gasoline, and all receptacles in which such oils are or may be contained. Such inspector shall receive an annual salary of two thousand five hundred dollars, payable monthly, and each of said deputies shall receive salaries as follows:

At ports of entry where the total number of barrels inspected is in excess of eight thousand per annum, the salary shall be fifty dollars per month.

At ports of entry where the total number of barrels inspected is in excess of fifteen thousand per annum, the salary shall be seventy-five dollars per month.

At ports of entry where the total number of barrels inspected is in excess of twenty-five thousand per annum, the salary shall be one hundred dollars per month; provided, that the salary of deputy oil inspectors at the designated points of entry shall be based on the

last annual report of the state oil inspector as to the amount of barrels of oil inspected. All other deputies shall receive a salary of not less than ten dollars per month nor more than thirty dollars per month, as in the judgment of the state inspector of oils is just compensation for services performed. The state inspector of oils shall make and file with the state auditor, monthly statements, under oath, of all fees collected under the provisions of this article, and pay the amount so collected to the state treasurer on or before the tenth day of each month, taking the state treasurer's receipt therefor, and file such receipt with the state auditor on or before the fifteenth day of each month; the money so received by the treasurer to be kept in a separate fund to be known as the "Oil Inspection Fund."

§ 2. OATH OF OFFICE. BOND.] The state inspector of oils and his deputies shall each, before entering upon the discharge of his duties, take oath or affirmation, according to the constitution of this state and the laws thereof, and shall file the same with the secretary of state. The state inspector of oils shall execute a bond to the state of North Dakota in the penal sum of five thousand dollars, with such surety as shall be approved by the governor of the state, conditioned for the faithful performance of the duties herein imposed, which bond shall be for the use of the state of North Dakota and of all persons aggrieved by the act or failure to act of the state inspector of oils, and the same shall be filed with the secretary of state. Each of said deputy inspectors of oils shall, before entering upon the discharge of his duties, execute a bond to the state of North Dakota in the penal sum of not less than one thousand dollars, nor more than five thousand dollars, as the state inspector of oils shall prescribe, which bond shall be approved by the governor and shall be filed with the secretary of state; and such bond shall be conditioned for the faithful performance of the duties herein imposed and shall be for the use of the state of North Dakota and all persons aggrieved by the act or failure to act of said deputy inspectors of oils.

§ 3. INSPECTION APPARATUS PROVIDED. CHEMIST EMPLOYED.] The state inspector of oils shall, immediately upon the appointment and qualification of the deputies named in section one, procure and furnish to such deputies such apparatus as may be necessary to carry out the provisions of this article. He may also purchase from time to time the apparatus for making tests of illuminating oils and gasoline as hereinafter provided, and pay the necessary office, travel and other expenses of the department. For the purpose of making chemical and photometric tests, as hereinafter provided for, there shall be set aside from the general funds two thousand dollars, which sum or so much thereof as is necessary, may be used under the direction of the state oil inspector in the employment of a competent chemist at the agricultural college and university. Such funds shall be taken from the general fund.

§ 4. PACKAGES BRANDED.] Every person, firm or corporation offering for sale to the trade or manufacturing within the state, such illuminating oils or gasoline, shall stamp or brand every package, barrel or cask containing such illuminating oils, with the name of the brand of the oil contained in such package, cask or barrel. Every package, cask or barrel which contains gasoline, shall be branded before being shipped into the state, "unsafe for illuminating purposes."

§ 5. MANNER OF TESTING.] It shall be the duty of the oil inspector, or his deputies, to examine and test within this state, all oil and gasoline held or offered for sale by any manufacturer, vendor, or by any person or corporation in this state, as follows:

For oil: All illuminating, fuel or coke refined oil, a product of petroleum, shall be inspected as follows:

1. The color shall be water white when viewed by transmitted light through a layer of oil four inches long.

2. After being subjected to inspection as herein provided, and having withstood all inspection tests, any such so inspected oil having a gravity of forty-eight degrees or better, may be colored red.

3. It shall not give a flash test below one hundred and five degrees Fahrenheit, closed cup test, Elliott cup, and shall not have a fire test below one hundred and twenty-five degrees Fahrenheit, Elliott cup.

4. The gravity test shall not be less than forty-six degrees, measured by the Baume hydrometer; provided, that illuminating oil produced from petroleum of low gravity, shall be labeled and sold as low gravity oil, and such illuminating oil shall have a gravity test of forty-two degrees (Baume), or higher, and said oil shall conform in other respects, to the tests as laid down in this act.

5. All such low gravity oil shall, when sold in packages, or from tank wagons, be plainly marked forty-two degrees gravity oil, and such marks or labels shall conform approximately to the following descriptions, viz: The words "forty-two degrees gravity oil," and such marks or labels, shall, when appearing on barrels or any container other than tank wagons, be made up of letters not less than two inches square each, and the same words shall appear on tank wagons from which such specified oil is sold in letters not less than three inches square each, and such sign or label shall be so placed on such tank wagon as to be plainly readable from both sides of tank wagon on which it may appear; further, provided, that the marks or labels herein described shall not appear on any container, barrel or tank wagon, unless such container, barrel or tank wagon shall contain the particular grade of oil for which this particular mark or label is intended.

6. It shall not contain water or tarlike matter, nor shall it contain more than a trace of any sulphur compound.

7. All storage receptacles from which illuminating oils subject to inspection under the provisions of this act are sold at retail shall have labels attached to the spout or faucet from which such oils are drawn, which labels shall plainly designate the approximate gravity of the oils so drawn as either forty-two degrees or forty-six degrees or forty-eight degrees as the case may be.

8. It shall be the duty of the state inspector of oils or his deputies, to at least once in each ninety days have a chemical test made at the state university and the state agricultural college, demonstrating whether or not such oils contain more than four per cent residum, after being distilled at a temperature of five hundred and seventy degrees Fahrenheit, and shall not contain more than six per cent of oil distilling, three hundred and ten degrees Fahrenheit; when one hundred cubic centimeters of the oil are distilled from a side necked distilling flask two and three-quarter inches in diameter and with a neck two and one-half inches in length, to the side necked tube, said flask to be covered with a closely adhering jacket of asbestos paper. Also a determination of the amount of sulphur compounds in said oils, together with such burning tests as may be necessary to determine the photometric value of the oils, which shall not be in the photometric test, when burning under normal conditions, show a fall of more than twenty-five per cent in candle power in a test for not less than six, nor more than eight hours' duration, consuming ninety-five per cent of the oil. The result of such chemical tests shall be included in the state oil inspector's annual report to the governor. The failure of the oil inspector to have the above tests made shall render him liable to a fine of one hundred dollars for each offense. If, upon such testing and examining, such oils shall meet the requirements as to the various tests mentioned and included in tests "1," "3" and "4," such oils shall be marked upon the package, barrel or cask containing the same, "approved," giving the date of such inspection and the name of the inspector or deputy. If, upon such examination and testing, such oil shall not meet the requirements as to color, fire and gravity tests herein specified, such oils shall be marked upon the barrel, package or cask containing the same, "rejected for illuminating purposes," giving the date of such examination and the official signature of the inspector or deputy making such inspection; and it shall be unlawful for any person or persons, or corporations, to sell any such oil so rejected for illuminating purposes for consumption in this state. In case any corporation, company or individual, manufacturer or vendor, has or offers for sale refined oils which do not comply with the tests under the heading "chemical tests," the state inspector of oils may exclude such oils from the state or cause them to be destroyed and the offending officers of any such corporation or company, or the manufacturer, vendor or individual having or offering for sale such oils shall be deemed guilty of a misdemeanor.

For gasoline: All gasoline offered for sale within the state shall be tested for gravity. All gasoline which tests sixty-eight degrees (Baume) or higher shall be branded, "approved for sale," and any gasoline which tests below sixty-three degrees (Baume) shall be marked, "rejected for sale"; provided, that gasoline produced from petroleum of low gravity shall be labeled and sold as low gravity gasoline, and such gasoline shall have a gravity test of sixty-three degrees (Baume), or higher; provided, that all gasoline offered for sale in this state, shall, when one hundred cubic centimeters are subjected to distillation in a flask as described for distilling oil, show not less than three per cent distilling at one hundred and fifty-eight degrees Fahrenheit, and there shall not be more than six per cent residue at two hundred and eighty-four degrees Fahrenheit. All gasoline, whether it is of a required test or not, shall be branded "unsafe for illuminating purposes"; but this clause shall in no way be construed as preventing the sale or use of said gasoline, providing it has been inspected and branded as above, "approved for sale."

§ 6. LISTS OF PORTS OF ENTRY FURNISHED. PENALTY FOR NON-COMPLIANCE BY RAILROAD COMPANY.] It shall be the duty of the state inspector of oils to transmit to each of the railway companies whose lines enter the state a list of the ports of entry which have been created, at once on entering upon the duties of his office, and to report to such companies new ports of entry as they may be established, together with the names of the deputies at each port, and the railway bringing refined oil or gasoline into the state, subject to inspection as herein provided, shall stop and hold for inspection at the port at which it enters, all consignments of such goods, and a failure to do so will be a misdemeanor on the part of the railway company and its representative in charge, and punishable by a fine not to exceed one hundred and fifty dollars, or by imprisonment not to exceed thirty days, or both. Any person, firm, corporation or individual bringing into the state such goods in same manner are subject to same regulations and penalties, except as to notifications of ports of entry and deputies and for their notification, notices shall be posted at every railway station in each port of entry.

§ 7. FEES. MONTHLY REPORTS.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline, as provided in this article, shall demand and receive from the owner of such oils and gasoline the sum of twenty-five cents for testing a barrel or less quantity. Fifty gallons shall constitute a barrel. Every such inspector and deputy inspector shall keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state the date of such inspection; the number of packages, barrels, casks or tanks approved; the number rejected; the name of the persons for whom inspected; the name of the person to whom consigned, with his address; the sum of money received for such inspection, and such records shall be open

7. All storage receptacles from which illuminating
to inspection under the provisions of this act are sold a
have labels attached to the spout or faucet from whi
are drawn, which labels shall plainly designate the
gravity of the oils so drawn as either forty-two degre
six degrees or forty-eight degrees as the case may be.

8. It shall be the duty of the state inspector of
deputies, to at least once in each ninety days have a c
made at the state university and the state agricultural
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cent residum, after being distilled at a temperature o
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than six per cent of oil distilling, three hundred and
Fahrenheit; when one hundred cubic centimeters of
distilled from a side necked distilling flask two and th
inches in diameter and with a neck two and one-half inche
to the side necked tube, said flask to be covered with a clo
ing jacket of asbestos paper. Also a determination of the
sulphur compounds in said oils, together with such bur
as may be necessary to determine the photometric value o
which shall not be in the photometric test, when burning
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hours' duration, consuming ninety-five per cent of the oil.
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and gravity tests herein specified, such oils shall be ma
on the barrel, package or cask containing the same, "rej
illuminating purposes," giving the date of such examinat
the official signature of the inspector or deputy making
spection; and it shall be unlawful for any person or pers
corporations, to sell any such oil so rejected for illuminati
poses for consumption in this state. In case any corporatio
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refined oils which do not comply with the tests under the
"chemical tests," the state inspector of oils may exclude su
from the state or cause them to be destroyed and the offend
ficers of any such corporation or company, or the manufacture
dor or individual having or offering for sale such oils shall be
ed guilty of a misdemeanor.

gasoline: All gasoline offered for sale within the state be tested for gravity. All gasoline which tests sixty-eight degrees (Baume) or higher shall be branded, "approved for sale," any gasoline which tests below sixty-three degrees (Baume) be marked, "rejected for sale"; provided, that gasoline produced from petroleum of low gravity shall be labeled and sold as gravity gasoline, and such gasoline shall have a gravity test of three degrees (Baume), or higher; provided, that all gasoline offered for sale in this state, shall, when one hundred cubic centimeters are subjected to distillation in a flask as described for distilling below not less than three per cent distilling at one hundred and eight degrees Fahrenheit, and there shall not be more than six per cent residue at two hundred and eighty-four degrees Fahrenheit. Gasoline, whether it is of a required test or not, shall be branded "safe for illuminating purposes"; but this clause shall in no case be construed as preventing the sale or use of said gasoline, providing it has been inspected and branded as above, "approved for sale."

6. LISTS OF PORTS OF ENTRY FURNISHED. PENALTY FOR NON-COMPLIANCE BY RAILROAD COMPANY.] It shall be the duty of the inspector of oils to transmit to each of the railway companies whose lines enter the state a list of the ports of entry which have been created, at once on entering upon the duties of his office, and to report to such companies new ports of entry as they may be established, together with the names of the deputies at each port, and any railway bringing refined oil or gasoline into the state, subject to inspection as herein provided, shall stop and hold for inspection at the port at which it enters, all consignments of such goods, and any failure to do so will be a misdemeanor on the part of the railway company and its representative in charge, and punishable by a fine not to exceed one hundred and fifty dollars, or by imprisonment not to exceed thirty days, or both. Any person, firm, corporation or individual bringing into the state such goods in same manner shall be subject to same regulations and penalties, except as to notification of ports of entry and deputies and for their notification, notice shall be posted at every railway station in each port of entry.

7. FEES. MONTHLY REPORTS.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline, as provided in this article, shall demand and receive from the owner of such oils and gasoline the sum of twenty-five cents for each barrel or less quantity. Fifty gallons shall constitute a barrel. Every such inspector and deputy inspector shall keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state the date of such inspection; the number of packages, barrels, casks or tanks approved; the number rejected; the name of the persons for whom inspected; the name of the person to whom consigned, with his address; the sum of money received for such inspection, and such records shall be open

7. All storage receptacles from which illuminating oils subject to inspection under the provisions of this act are sold at retail shall have labels attached to the spout or faucet from which such oils are drawn, which labels shall plainly designate the approximate gravity of the oils so drawn as either forty-two degrees or forty-six degrees or forty-eight degrees as the case may be.

8. It shall be the duty of the state inspector of oils or his deputies, to at least once in each ninety days have a chemical test made at the state university and the state agricultural college, demonstrating whether or not such oils contain more than four per cent residum, after being distilled at a temperature of five hundred and seventy degrees Fahrenheit, and shall not contain more than six per cent of oil distilling, three hundred and ten degrees Fahrenheit; when one hundred cubic centimeters of the oil are distilled from a side necked distilling flask two and three-quarter inches in diameter and with a neck two and one-half inches in length, to the side necked tube, said flask to be covered with a closely adhering jacket of asbestos paper. Also a determination of the amount of sulphur compounds in said oils, together with such burning tests as may be necessary to determine the photometric value of the oils, which shall not be in the photometric test, when burning under normal conditions, show a fall of more than twenty-five per cent in candle power in a test for not less than six, nor more than eight hours' duration, consuming ninety-five per cent of the oil. The result of such chemical tests shall be included in the state oil inspector's annual report to the governor. The failure of the oil inspector to have the above tests made shall render him liable to a fine of one hundred dollars for each offense. If, upon such testing and examining, such oils shall meet the requirements as to the various tests mentioned and included in tests "1," "3" and "4," such oils shall be marked upon the package, barrel or cask containing the same, "approved," giving the date of such inspection and the name of the inspector or deputy. If, upon such examination and testing, such oil shall not meet the requirements as to color, fire and gravity tests herein specified, such oils shall be marked upon the barrel, package or cask containing the same, "rejected for illuminating purposes," giving the date of such examination and the official signature of the inspector or deputy making such inspection; and it shall be unlawful for any person or persons, or corporations, to sell any such oil so rejected for illuminating purposes for consumption in this state. In case any corporation, company or individual, manufacturer or vendor, has or offers for sale refined oils which do not comply with the tests under the heading "chemical tests," the state inspector of oils may exclude such oils from the state or cause them to be destroyed and the offending officers of any such corporation or company, or the manufacturer, vendor or individual having or offering for sale such oils shall be deemed guilty of a misdemeanor.

For gasoline: All gasoline offered for sale within the state shall be tested for gravity. All gasoline which tests sixty-eight degrees (Baume) or higher shall be branded, "approved for sale," and any gasoline which tests below sixty-three degrees (Baume) shall be marked, "rejected for sale"; provided, that gasoline produced from petroleum of low gravity shall be labeled and sold as low gravity gasoline, and such gasoline shall have a gravity test of sixty-three degrees (Baume), or higher; provided, that all gasoline offered for sale in this state, shall, when one hundred cubic centimeters are subjected to distillation in a flask as described for distilling oil, show not less than three per cent distilling at one hundred and fifty-eight degrees Fahrenheit, and there shall not be more than six per cent residue at two hundred and eighty-four degrees Fahrenheit. All gasoline, whether it is of a required test or not, shall be branded "unsafe for illuminating purposes"; but this clause shall in no way be construed as preventing the sale or use of said gasoline, providing it has been inspected and branded as above, "approved for sale."

§ 6. LISTS OF PORTS OF ENTRY FURNISHED. PENALTY FOR NON-COMPLIANCE BY RAILROAD COMPANY.] It shall be the duty of the state inspector of oils to transmit to each of the railway companies whose lines enter the state a list of the ports of entry which have been created, at once on entering upon the duties of his office, and to report to such companies new ports of entry as they may be established, together with the names of the deputies at each port, and the railway bringing refined oil or gasoline into the state, subject to inspection as herein provided, shall stop and hold for inspection at the port at which it enters, all consignments of such goods, and a failure to do so will be a misdemeanor on the part of the railway company and its representative in charge, and punishable by a fine not to exceed one hundred and fifty dollars, or by imprisonment not to exceed thirty days, or both. Any person, firm, corporation or individual bringing into the state such goods in same manner are subject to same regulations and penalties, except as to notifications of ports of entry and deputies and for their notification, notices shall be posted at every railway station in each port of entry.

§ 7. FEES. MONTHLY REPORTS.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline, as provided in this article, shall demand and receive from the owner of such oils and gasoline the sum of twenty-five cents for testing a barrel or less quantity. Fifty gallons shall constitute a barrel. Every such inspector and deputy inspector shall keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state the date of such inspection; the number of packages, barrels, casks or tanks approved; the number rejected; the name of the persons for whom inspected; the name of the person to whom consigned, with his address; the sum of money received for such inspection, and such records shall be open

to all persons interested. On the first day of each and every month every deputy inspector of oils shall transmit to the state inspector of oils all inspection fees received during the preceding month, and shall at the same time forward to the auditor of state and to the state inspector of oils, true copies of said record for the month preceding. The state inspector of oils shall, in the month of January in each year, make and deliver to the governor a report of his acts, and those of his deputies during the year preceding, together with remarks and suggestions for the benefit of the service, which shall include a copy and summary of the reports submitted by the said deputies as provided in this section.

§ 8. INSPECTOR MUST NOT DEAL IN OIL.] It shall be unlawful for the state inspector of oils or his deputies to directly or indirectly while in office traffic in any of the oils which he has been appointed to inspect. Any person violating the provisions of this section shall be subject to a penalty of not exceeding five hundred dollars and be removed from office.

§ 9. FURNISH INFORMATION TO STATE'S ATTORNEY.] It shall be the duty of the state inspector of oils or any of his deputies, or any person having cognizance of violation of the provisions of this article to forthwith make complaint to the state's attorney for the county in which the offense is alleged to have been committed against the person or persons so offending, and it is hereby made the duty of such state's attorney to represent and prosecute on behalf of the people in his county all cases of offense arising under the provisions of this article. Any inspector or state's attorney who wilfully refuses or neglects to carry out the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be removed from office.

§ 10. UNLAWFUL TO SELL OIL OR GASOLINE NOT INSPECTED.] It shall be unlawful for any person, firm or corporation, whether vendor, dealer or manufacturer, to knowingly have, use, sell, attempt to sell or deliver to any person in this state any of the illuminating oils or gasoline hereinbefore mentioned until the same shall have been inspected and approved according to the provisions of this article. It shall be unlawful for any person to falsely brand any package, barrel or cask or falsely certify to any tank car containing illuminating oils or gasoline for the purpose of deceiving the purchaser thereof in any manner as to the contents of the same. It shall be unlawful for any person to sell or dispose of any empty barrel, cask or package that has once been used for illuminating oils or gasoline and has been branded in accordance with this article before thoroughly cancelling, removing, or effacing the inspection brand on the same. It shall be unlawful for any person, firm or corporation to adulterate with paraffin, or other substance for the purpose of sale or use any of the illuminating oils and gasoline specified in this article in such manner as to render them unsafe for use, nor shall any person

knowingly use, sell or offer for sale for illumination purposes oil which shall emit a combustible vapor at a temperature less than one hundred and five degrees Fahrenheit according to the test herein prescribed, nor any gasoline which is below sixty-eight degrees gravity (Baume), except as provided for in this act. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a penalty or not exceeding five hundred dollars fine, or imprisonment in the state penitentiary not exceeding one year, or both fine and imprisonment.

§ 11. SELLER LIABLE FOR DAMAGES, WHEN.] Whoever shall knowingly use, sell of cause to be sold unlawfully any of the illuminating oils specified in this article which are below one hundred and five degrees Fahrenheit, as tested by the official test herein described, shall be liable to any person purchasing such oil or to any person injured thereby for any damage to person or property arising from any explosion thereof.

§ 12. DEPUTY'S BOOKS EXAMINED.] It shall be the duty of the state inspector of oils to at least once in ninety days make a thorough examination of the books and other accounts of each of his deputies to determine whether such deputies are fully complying with the law, and to make such other examinations as may be necessary to ascertain, as far as practicable, whether any of the provisions of this article are being violated. When the state inspector of oils shall discover any violation of the provisions of this article he shall at once make complaint and institute prosecution thereunder.

§ 13. GOVERNOR MAY REMOVE INSPECTOR.] It shall be the duty of the governor, whenever he shall find that the state inspector of oils is guilty of refusal or neglect to discharge any of the duties enjoined upon him by this article, to promptly remove him from office. It shall be the duty of the state inspector of oils to promptly remove from office any of his deputies who shall prove himself to be unfaithful or dishonest in the discharge of his duties.

§ 14. PORTS OF ENTRY DESIGNATED.] All illuminating oils and gasoline when shipped into this state shall be inspected on entering the state, the following points being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes, Ellendale, Ardoch, Zeeland, Hettinger or other points where oil carrying roads enter the state or great public necessity requires inspections should be made. For making inspections other than at said points, the inspector or his deputy shall be entitled, in addition to the fees prescribed, to actual traveling expenses, such expenses to be paid by the party for whom the inspection is made.

§ 15. SALARIES PAID FROM GENERAL FUND.] All salaries and expenses of the general department shall be paid out of the general fund on the order of the state inspector of oils.

§ 16. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1909.

OSTEOPATHY

CHAPTER 172.

[S. B. No. 131—Crane]

REGULATING PRACTICE OF OSTEOPATHY.

AN ACT Creating a State Board of Osteopathic Examiners to Regulate the Practice of Osteopathy in the State of North Dakota; to Provide for Licensing Doctors of Osteopathy and to Prescribe Penalties for the Violation of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. STATE BOARD OF OSTEOPATHIC EXAMINERS, HOW APPOINTED. QUALIFICATIONS. VACANCIES, HOW FILLED.] Within thirty days after the passage of this act the governor shall appoint a state board of osteopathic examiners, consisting of three practicing doctors of osteopathy, graduates of reputable schools of osteopathy and resident practitioners of the state. The members of said board shall hold their offices for a term of three years and until their successors are appointed and qualified, except the first appointees, who shall serve for one, two and three years, respectively, in the order of their appointment. All vacancies in the board shall be filled by the governor by appointment, the appointees to such vacancies to possess the qualifications above required for members of said board.

§ 2. OFFICERS. MEETINGS FOR EXAMINATIONS. EXPENSES OF BOARD. QUORUM. RECORD OF LICENSES.] Such board shall elect a president, a secretary and a treasurer and shall have a seal. The president and secretary shall have the power to administer oaths. The board shall hold regular meetings for examinations at such places as it may designate on the first Tuesdays of January and July of each year, and such special meetings as it may from time to time appoint. The board shall by appropriate rules and regulations make provision for the payment of the expenses of its members, including per diem and mileage, but all such expenses shall be paid out of application fees. Two members of the board shall constitute a quorum and no license to practice osteopathy shall be granted except upon an affirmative vote of at least two of such members. The board shall keep a record of all its proceedings and also a register of applicants for license, showing the name of each, his age, time spent in the study of osteopathy, the names and location of the institutions from which such applicant holds the degree of doctor

of, or diplomate in, osteopathy, together with the date of his diploma. Such register shall also show whether the applicant was licensed or rejected. Such record and register shall be prima facie evidence of the matters therein recorded.

§ 3. EXAMINATIONS, HOW CONDUCTED. LICENSES, HOW GRANTED AND REVOKED.] All persons before commencing the practice of osteopathy in this state shall apply to the state board of osteopathic examiners for a license so to do, and such applicant shall submit to an examination in the following subjects: Anatomy, histology, physiology, physiological chemistry, toxology, diagnosis, pathology, obstetrics, gynecology, surgery, principles and practice of osteopathy, medical jurisprudence and such other subjects as the board may require, and shall present a diploma from a reputable school of osteopathy, wherein the course of instruction was not less than twenty months prior to the year 1907, and not less than three years of nine months each since said year. And the board shall cause such examination to be practical and scientific and sufficient to test the applicant's fitness to treat the diseases of the human body according to the theory of osteopathy, which shall not include the prescribing of internal medicine. If the applicant passes the prescribed examination by answering correctly not less than seventy-five per cent of the questions propounded to him in each subject, the board shall grant him a license to practice osteopathy in this state, which license shall be signed by the president and secretary of the board and attested by the seal thereof. The fee for such examination shall be twenty dollars, payable in advance, which shall be applied to the payment of the expenses of the board and of such examination. The board may, in its discretion, permit an unsuccessful applicant to take a second examination within one year after rejection, without the payment of an additional fee. The board may also, in its discretion, grant a license for the fee above specified, without examination, to applicants examined and licensed by the legally constituted boards of other states and territories of the United States, or the District of Columbia, maintaining standards of equal grade with those required in this act. The board may refuse or revoke a license for dishonorable, unprofessional or immoral conduct, chronic or persistent inebriety, or mental aberration, excessive use of narcotics, or the practice of criminal abortion or for violating the provisions of this section. The accused shall be furnished with a copy of the complaint and be given a hearing before the board in person, or by attorney.

§ 4. LICENSE TO BE RECORDED.] The person receiving a license shall file the same for record in the office of the register of deeds of the county wherein he resides and the register of deeds shall record the same in like manner as other instruments required to be recorded.

§ 5. PRESENT PRACTITIONERS.] The board shall acknowledge all osteopathic diplomas of physicians who were residents in the state

elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where is appears to the satisfaction of the court or magistrate that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and where it may appear that the public good does not demand or require that the defendant shall suffer the penalty imposed by law, said court or magistrate may suspend the execution of the sentence, and place the defendant on probation in the manner hereinafter provided.

§ 2. EXCEPTIONS.] No persons convicted of murder, arson, burglary of an inhabited dwelling house, incest, sodomy, rape without consent, assault with intent to rape, or administering poison, shall have the benefit of probation.

§ 3. STATUS OF PROBATIONERS.] Whenever a sentence to the penitentiary has been imposed, but the execution thereof has been suspended and the defendant placed on probation, the effect of such order shall be to place said defendant under the control and management of the board of trustees of the penitentiary, and he shall be subject to the same rules and regulations as apply to persons paroled from the penitentiary after a period of imprisonment therein.

§4. BLANK FORMS FOR PROBATION OF PRISONERS.] It shall be the duty of the board of trustees of the state penitentiary to furnish the clerks of court of each county with blank forms setting forth the requirements and conditions used by them in the parole of prisoners of the institution, and in cases of probation.

§ 5. CERTIFICATION OF PROBATIONER TO THE PENITENTIARY.] Whenever it is the judgment of the court that the defendant be placed upon probation, and under the supervision of the penitentiary, it shall be the immediate duty of the clerk of the said court to make a full copy of the judgment of the court, with the order for the suspension of the execution of the sentence thereunder, and the reasons therefor, and to certify the same to the warden of the penitentiary, to which the court would have committed the defendant but for the suspension of the sentence. Upon entry in the records of the court of the order for such probation, the defendant shall be released from custody of the court as soon as the requirements and conditions of the board of trustees of the penitentiary have been properly and fully met.

§ 6. FIELD OFFICER.] The board of trustees of the penitentiary shall appoint and employ one officer, to be known as field officer for the institution, who shall carefully look after the welfare of all persons whose sentences have been suspended, and those who have been paroled from said institution after a period of imprisonment therein.

§ 7. TERMINATION OF PROBATION.] Whenever a person placed upon probation, as aforesaid, does not conduct himself in accordance with the rules and regulations of the institution in whose

charge he has been placed, the field officer thereof may without warrant or other process, arrest said person and convey him to said institution, and the board of trustees of the penitentiary may, after a full investigation and a personal hearing, because of such conduct, forthwith terminate the probation and cause said person to suffer the penalty of the sentence previously suspended. Any person under probation who has violated the conditions of his probation shall, under order of the board of trustees of the penitentiary, be subject to arrest in the same manner as in the case of an escaped convict. In all such cases of termination of probation, the original sentence shall be considered as beginning upon the first day of imprisonment in the institution.

§ 8. RELEASE FROM PROBATION.] Whenever it is the judgment of the board of trustees of the penitentiary that a person on probation has satisfactorily met the conditions of his probation, they shall cause to be issued to said person a final discharge from further supervision; provided, that the length of such period of probation shall not be less than the minimum or more than the maximum [term] for which he might have been imprisoned.

§ 9. WARRANTS FOR EXPENSES.] The state auditor shall issue his warrant upon the state treasurer to pay from the appropriation for conviction and transportation of convicts, the salaries and necessary expenses of the field officer upon presentation of itemized vouchers properly approved by the board of trustees of the state penitentiary.

Approved March 15, 1909.

CHAPTER 175.

[H. B. No. 158—Wolbert]

INDETERMINATE SENTENCE

AN ACT to Provide Indeterminate Sentences of Persons Convicted of Certain Crimes; Providing for a Board of Experts Empowered to Prescribe Suitable Rules of Conduct and Treatment; and to Determine How and When a Person Sentenced Under This Act Shall be Paroled or Released.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TERM OF IMPRISONMENT IN THE PENITENTIARY.] Every person who shall be convicted of felony punishable by imprisonment in the penitentiary, except treason, murder in the first degree, rape and kidnapping, shall be sentenced to the penitentiary, and the court imposing such sentence may in its discretion refrain from fixing the limit or duration of the same, but in such cases the term of

imprisonment shall not be less than the minimum term as now provided by law, or shall not exceed the maximum term as now or hereafter provided by law for the offense committed.

§ 2. OFFICIAL INFORMATION OF PRISONER'S CHARACTER AND HABITS.] It shall be the duty of the judge before whom any person is convicted and sentenced indeterminately to the penitentiary, and also of the state's attorney of the county in which such conviction is had, to file with the clerk of the district court an official statement of the facts and circumstances constituting and surrounding the crime whereof the prisoner was convicted, his age as nearly as can be ascertained, together with all other information accessible in regard to the career of the prisoner prior to the time of the committal of the crime of which he was convicted, relative to his habits, associates, disposition and reputation, and any other facts and circumstances which may be capable of throwing light upon the question as to when such prisoner may be capable of becoming a law-abiding citizen. It shall be the duty of the official court reporter, at the dictation of the judge of said court, or the state's attorney of said county, to write the official statements of the judge and state's attorney above referred to at the time of the conviction of the prisoner, and it shall be the duty of the clerk of the court to cause copies of such official statements to be attached to the commitment, with the copy of the judgment of the court at the time of issuing the same, and deliver the same, so attached, to the sheriff of the county, for transmission to the institution to which the prisoner is committed.

§ 3. DUTIES OF FIELD OFFICERS.] It shall be the duty of the officer who is or may hereafter be provided by law to look after the welfare of persons whose sentences have been suspended or who have been paroled, to supervise, care for and account for all persons paroled according to law in this state; to keep a complete record of the paroled person, and to report to the warden from time to time all matters pertaining to the employment, conduct and whereabouts of each person under parole from the penitentiary; and in addition to render a full and complete report at the end of each month of all persons paroled from the penitentiary. It shall also be his duty to apprehend and return to the penitentiary all persons that have violated their parole.

§ 4. BOARD OF EXPERTS.] The warden of the state penitentiary, the prison physician, the chaplain of the state penitentiary, and one other person, to be chosen by the board of trustees of the state penitentiary, shall constitute a board of experts, whose duty it shall be to pass upon the application for discharge of the inmates of the penitentiary who may have been sentenced under the indeterminate sentence provided by law, and also to pass upon the application of the inmates of the penitentiary who may make application to be paroled, as provided by law. The board of trustees shall elect a

member of the board of experts at their first meeting (held in April) after this law takes effect, and thereafter at the April meeting on each odd-numbered year. The term of this member of the board of experts shall be two years, commencing immediately after the April board meeting in an odd-numbered year. The chairman and secretary of the board of trustees of the state penitentiary shall certify to the governor and the state auditor all the names of the members of the board of experts as soon as they are elected or constituted members thereof. The board of experts as above constituted shall determine and fix the date when an inmate may be released on parole or discharged, after the expiration of the minimum term of the sentence, and shall keep a complete record of all the findings and orders of the board. It shall be the duty of the board of experts to provide books of record, application blanks, and to formulate rules and regulations governing the conduct of the inmates, and the manner in which they may become eligible to become applicants for discharge or parole, to meet once in each month, and to keep a complete record of all inmates discharged or paroled, and to make a biennial report to the board of trustees of all rules adopted, and of inmates paroled and discharged, and of all statistics pertaining thereto.

§ 5. COMPENSATION.] Each member of the board of experts, except the warden of the penitentiary and prison physician, shall receive five dollars a day and necessary traveling expenses for travel to and from the state penitentiary, and expenses for books and records, to be paid out of the general fund of the state by the state treasurer on presentation of a voucher, as required by law, and approved by the board of trustees of the state penitentiary.

§ 6. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 7. EMERGENCY.] An emergency exists, by reason of the fact that persons have been sentenced to the penitentiary for indeterminate terms, and that no one has authority to pass on the indeterminate feature of their sentences, therefore, be it provided, that this law shall be in full force and effect from and after its passage and approval.

Approved March 16, 1909.

PARKS

CHAPTER 176.

[S. B. No. 328—Baker]

POWERS OF PARK COMMISSION.

AN ACT to Amend Section 5, of Chapter 179, of the Session Laws of North Dakota, for the Year 1907, Entitled, "An Act Creating Park Districts and for the Government Thereof, Creating a Board of Park Commissioners, Conferring Power and Authority Upon Such Board, and District, and Providing Rules for the Government Thereof," Such Amendments to Provide for a Levy of Not to Exceed Three Mills on the Dollar in Any One Year, and by Limiting the Right to Issue Bonds to Cases Where Authorized by a Vote of the Electors and by Adding a New Section Giving the Park Board Power to Plant and Protect Trees in Public Streets and Highways.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 5. POWERS OF COMMISSION.] The park commission shall have power:

1. To acquire by purchase, gift, devise, condemnation or otherwise, land within its territorial limits, or within two miles therefrom, for parks, boulevards and ways, and shall have sole and exclusive authority to maintain, govern, erect and improve the same.

2. To lay out, open, grade, curb, pave and otherwise improve any path, way or street, in, through or around said parks, and to construct, erect, build, maintain, manage, govern and erect any and all buildings, pavilions, play and pleasure grounds or fields and such other improvements of a like character as may be deemed necessary.

3. To pass all ordinances necessary, requisite and needful for the regulation and government thereof, and to make, change and enforce any order with reference thereto.

4. To levy special assessments on all property specially benefitted by the purchase, opening, establishment and improvement of such parks, boulevards and ways or streets or ways about the same.

5. To appoint such engineers, surveyors, clerks and other officers and employes, including such police force as may be necessary and to define and prescribe their respective duties and authority and to fix their compensation.

6. To issue the negotiable bonds of the park district in a sum not to exceed two per cent of the value of the taxable property

therein situated, for the sole and exclusive purposes of purchasing and acquiring lands for such parks, boulevards and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, play and pleasure fields; provided, such bonds shall not bear a rate of interest to exceed six per cent; and, provided, further, that upon the affirmative vote of the electors of such district as by law provided, such commission may be authorized to issue such bonds in an amount in the aggregate not to exceed five per cent of such assessed value.

7. To levy taxes upon all the property within said district for the purpose of maintaining and improving said parks, boulevards and ways and to defray the expenses of such board; provided, that such tax so levied shall in no year exceed the sum of three mills on each dollar of the taxable property within said district.

8. To establish building lines for all property fronting on any park, boulevard or way under the direction and control of such commission, and to control the subdivision and planting of property within four hundred feet thereof.

9. To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes or obligations of the district.

10. To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof, and the said park commission shall have sole and exclusive charge and control of such street or streets so taken for such purpose.

11. To plant, set out, maintain, protect and care for shade trees in any of the public streets or highways of their respective districts, and to specify and regulate the kinds of trees that shall be planted or set out in such streets or highways, the size and location of such trees and the methods to be used in the planting and cultivation thereof, and to pass such ordinances as may be requisite, necessary or needful for the protection and control of such trees.

Approved March 17, 1909.

PARTNERSHIP

CHAPTER 177.

[H. B. No. 46—Dibley]

EXECUTION OF INSTRUMENTS BY PARTNERSHIP MEMBERS.

AN ACT Relating to the Execution and Acknowledgment by a Member of a Partnership of Instruments Affecting Liens Upon Real Estate, and Validating the Execution and Acknowledgment of Such Instruments Heretofore Made.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO MAY EXECUTE.] Any one member of a partnership may execute and acknowledge in behalf of the partnership and in behalf of all of the members thereof, assignments of, releases of, satisfactions of and other instruments affecting liens upon real property situated in this state.

§ 2. FORMER ACKNOWLEDGEMENTS VALIDATED.] All assignments of, releases of, satisfactions of and other instruments affecting liens upon real estate heretofore executed and acknowledged by one member of any partnership in behalf of such partnership are declared valid and effectual to the same extent as they would have been if section one hereof had been in force at the time of their execution.

§ 3. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved Feb. 20, 1909.

PRINTING

CHAPTER 178.

[H. B. No. 281—House Committee on Public Printing]

LEGAL RATES.

AN ACT to Amend Section 2620 of the Revised Codes of 1905, Relating to Legal Rates for Publication of Legal Notices.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2620 of the revised codes of 1905 is amended to read as follows:

§ 2620. PAY REQUIRED.] In all cases where publication of legal notices of any kind is required or allowed by law, the person or officer desiring such publication shall be required to pay seven cents per counted line of nonpareil type for the first insertion and four cents per line of nonpareil for each subsequent insertion; or five cents per counted line of brevier type for the first insertion and three cents per line of brevier type for each subsequent insertion. All tabulated rule and figure matter shall be computed at double the rates for straight matter. A line shall be construed to mean thirteen ems pica in length. In all cases of publication of notices required by law, the plaintiff, except in divorce cases, may designate the legal newspaper published within the county in which such notice shall be published.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, there is now much conflict and ambiguity in the laws regulating fees to be allowed for legal publications, and by reason thereof an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1909.

CHAPTER 179.

[H. B. No. 233—Honey]

OFFICIAL NEWSPAPER DEFINED.

AN ACT to Define What Is An Official Newspaper.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. OFFICIAL NEWSPAPER DEFINED.] An official newspaper is one designated by a state or municipal legislative body, or an agent empowered by it, in which the public acts, resolves, advertisements and notices are required to be published; and wherever in the statutes of this state the term "official paper" is used in lieu of the term "official newspaper", this definition shall apply.

Approved March 16, 1909.

PROCEDURE

CHAPTER 180.

[S. B. No. 238—Overson]

CHANGE OF VENUE.

AN ACT to Amend Section 8478 of Chapter Five of the Justice Code of the Revised Codes of North Dakota for 1905, Relating to Change of Venue and Number of Such Changes, and Granting a Change of Venue to State and Defendant Alike.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 8478 of chapter five of the justice code is hereby amended to read as follows:

§ 8478. CHANGE OF VENUE.] When the defendant or his attorney, or the state, by the state's attorney, or any other attorney acting for the state, before the trial commences files an affidavit in writing, stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the justice about to try the same by reason of the bias or prejudice of said justice, the action must be transferred to a justice of the county agreed upon by or in behalf of the parties, or if there is no such agreement to the next nearest justice within the county and an

order must be made transferring the same accordingly. But the place of trial cannot be changed more than once by each party under the provisions of this section.

Approved March 15, 1909.

PROHIBITION

CHAPTER 181.

[S. B. No. 74—McDonald]

REPEAL OF REWARDS FOR CONVICTION OF VIOLATORS OF PROHIBITION LAW.

AN ACT to Repeal Section 9395 of the Revised Codes of North Dakota, 1905, Relating to Rewards for the Arrest and Conviction of Violators of the Prohibition Law.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL.] Section 9395, revised codes of North Dakota, 1905, is hereby repealed.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved February 26, 1909.

CHAPTER 182.

[H. B. No. 114—Ganssle]

LIQUOR LICENSE.

AN ACT to Amend Chapter 189 of the Session Laws of 1907.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1, of chapter 189, of the session laws of 1907, is hereby amended so as read as follows:

§ 1. LIQUOR LICENSE. TAX RECEIPT REGISTERED. EXCEPTION.] Every receipt, stamp or license showing payment of the special tax levied under the laws of the United States upon the business of selling distilled, malt or fermented liquor, issued to or held by any person, firm or corporation in this state, shall be registered and published as in this act required; provided, however, that nothing in this act contained shall be so construed as to apply to registered

pharmacists who are conducting a regularly established pharmacy in this state.

Approved March 16, 1909.

CHAPTER 183.

[H. B. No. 288—McCrea]

SALE OF LIQUOR BY DRUGGISTS.

AN ACT to Amend Sections 9354, 9355, 9356, 9357, 9358, 9359, 9360, 9361, 9362, 9363 of the Revised Codes of 1905 and Any Acts Amendatory Thereof, and to Re-enact Sections 9364 and 9365 of Said Code, Regulating the Sale of Intoxicating Liquors by Druggists Who Are Registered Pharmacists, and to Provide a Method of Such Sales, and of Granting and Revoking of Permits.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 9354, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9354. DRUGGIST'S PERMIT, HOW OBTAINED.] It shall be unlawful for any person or persons to sell or barter, for medical, scientific, sacramental or mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggist's permit therefor from the district judge of the judicial district wherein such druggist may be doing business at the time; and such district judge is hereby authorized in his discretion to grant a druggist permit for a period of one year, to any person of good moral character who is a registered pharmacist under the laws of this state, and lawfully and in good faith engaged, personally and individually, in the business of a druggist in his district, and who, in his judgment, can be entrusted with the responsibility of selling such liquors for the purposes aforesaid in the manner hereinafter provided. In order to obtain a druggist permit under this act, the applicant shall file in the office of the clerk of the district court of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant. All petitions shall set forth:

1. The town, village, city or township, and particular place therein wherein such business is located, and that the applicant is a person of good moral character, and does not use intoxicating liquors as a beverage, and can be entrusted with the responsibility of selling the same.

2. That said applicant is a pharmacist as aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist, as the proprietor thereof, at the place designated in the petition, and well versed in the profession.

3. That said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs and druggist's sundries, if in any city, of the value of at least two thousand dollars, and if elsewhere of the value of at least fifteen hundred dollars; provided, that permits may be granted to any pharmacist possessing all the qualifications herein set forth who owns in his own right in any partnership, association or corporation, if in a city, an amount of interest or capital stock of at least two thousand dollars and if elsewhere of the value of at least fifteen hundred dollars and who is the manager and in actual personal charge of the business of such partnership or corporation at the place of its retail business, and who in addition to his responsibility as a partner or stockholder, shall become personally and individually responsible for all sales in the same manner and to the same extent that he would if he owned said business in person, and; provided, that such applicant must have been engaged in business as a druggist at the place designated in said petition for a period of at least six months next preceding the making of the application for such permit, and; provided, that only one permit shall be granted or issued to the same person.

§ 2. AMENDMENT.] Section 9355, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9355. HEARING. APPLICATION TO BE PUBLISHED.] When said petition is filed, the judge of the district court shall fix a time and place for hearing the same, at the county seat, which shall be at a regular or special term of the district court in said county, unless for satisfactory reasons the judge shall order another time for such hearing. Before any such petition shall be heard, or any permit issued to such applicant, he shall publish for at least thirty days next prior thereto, a notice in some newspaper in the town, village, township or city, where such business is located, or if none is published therein, then in some paper of general circulation in the county, stating the time and place set by the judge for the hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the state's attorney of the county shall, and any other citizen of the county may, appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the statements in such petition are true, the district judge may in his discretion grant a permit to the applicant to sell intoxicating liquors for medical, mechanical, scientific, and wine for sacramental purposes only; and such permit shall be recorded upon the journal of the district court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein such business is carried on before it shall be of any validity. The proofs offered to show the applicant entitled

to a permit must be clear, specific, satisfactory and of such a character as to leave in the mind of the judge no hesitation or substantial doubt as to their truth, and the burden of producing such proof shall always be upon the applicant.

§ 3. AMENDMENT.] Section 9356, revised codes of the state of North Dakota, 1905, is amended so as to read as follows:

§ 9356. BOND AND OATH OF APPLICANT. REVOCATION OF PERMIT.] 1. Before such permit shall be of any validity such druggist shall file with the clerk of the district court an oath or affirmation to the effect that he will support and defend the constitution of the United States and of the state of North Dakota, and that he will faithfully obey all the provisions of this act. All certificates and returns made by him shall be deemed made under the sanctity of this oath or affirmation; and shall also file with said clerk, to be approved by the judge, a good and sufficient bond to the state of North Dakota, in the sum of one thousand dollars, executed by five freeholders of the county who shall justify in double the amount of said bond on surety bond, conditioned that such applicant and any one in his employ will neither issue, sell, barter or give away any intoxicating liquors in violation of the law, and on violation of any provisions of said bond the same shall thereby become forfeited in the full amount thereof; and the conviction of said pharmacist or any one in his employ shall be deemed prima facie evidence of such violation. From the decision of such district judge there shall be no appeal.

2. If at any time there shall be filed with the district judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this chapter, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by either the attorney general, his assistant, the state's attorney, or three reputable men who reside in the town, village, township or city in which the business of said druggist is carried on, requesting that the permit of such druggist be canceled, the district judge shall immediately issue an order citing such druggist to appear before him on a day named, not less than ten nor more than sixty days from the date of issuing such order, at which time the question of cancellation of such permit shall be considered. Such proceedings shall be entitled in the name of the state of North Dakota against the party whose permit it is sought to cancel; they shall be special and judicial in their nature and triable before the court as actions are now tried without a jury. Appeals to the supreme court shall be allowed, provided notice thereof in writing be given within ten days from the date of notice of the entry of judgment. Pending such appeal the judgment of the court shall not be stayed.

§ 4. AMENDMENT.] Section 9357, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9357. PENALTIES. FEES.] If any district judge shall issue a permit to any person not registered as a pharmacist or shall knowingly grant the same to a person in the habit of becoming intoxicated or not in good faith engaged in the business of a druggist as a proprietor thereof, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred nor more than one thousand dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the district judge the applicant shall pay a fee of five dollars to the clerk of the district court, who shall pay the same into the county treasury on or before the first day of the following month for the benefit of the general revenue fund. All permits now in force shall expire July 1, 1909; provided, that if any person, then having an unexpired permit, in good faith and at least thirty days prior to July 1, 1909, has made application for another permit under the provisions of this act, his permit shall remain in full force until such time as the judge shall pass upon such application, at which time all rights under such former permit shall cease.

§ 5. AMENDMENT.] Section 9358, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9358. CASES OF EMERGENCY.] Any physician who is lawfully and regularly engaged in the practice of his profession as a business, and who, in case of emergency and actual need, shall deem any intoxicating liquors necessary for the health of his patients, may give such patient a written or printed prescription therefor, not exceeding one pint in quantity, stating in said prescription the particular disease for which it is given, or may administer the same himself; but no such prescription shall be given, or liquors administered, except in cases of emergency and actual need, and any physician giving such prescription shall insert therein the true date of its issue, and no such prescription shall be filled except on date given, or the following day, and shall not be refilled, and shall be retained on file for the period of two years by the druggist filling the same; provided, that such emergency shall not be construed to allow a pharmacist to fill such prescription unless he holds a druggist permit; nor does it allow the physician to sell such liquor to his patient unless he has a druggist permit so to do. And every physician who shall give such prescription or administer such liquors in violation of this chapter, and every physician who shall give to or write for any person a prescription for intoxicating liquors for the purpose of enabling or assisting any person to evade any of the provisions of this chapter, or for the purpose of enabling or assisting any person to obtain any intoxicating liquors for use as a beverage, or to be sold or disposed of in any manner, in violation of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less

than three hundred dollars nor more than eight hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months.

§ 6. AMENDMENT.] Section 9359, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9359. REGULATING DRUGGIST SALES. AFFIDAVITS.] Any druggist having a permit to sell intoxicating liquors, under the provisions of this chapter, may sell the same only by himself in person, or by a clerk who is a registered pharmacist or assistant pharmacist under the laws of this state, for medical purposes only, upon the printed or written affidavit of the applicant, setting forth the particular medical purposes for which such liquor is required, the kind and quantity desired; that it is necessary and actually needed for the particular purpose, by the patient to be named; and that it is not intended for a beverage nor to sell or give away; that the applicant is over twenty-one years of age; which affidavit shall be in the following form and subscribed by the applicant in ink.

No. Date.....

State of North Dakota, county of ss.

I the undersigned do solemnly swear that my real name is; that I reside at; (if in a city the name of street must be given; if in a town or village the name of street must be given; if in the country, the section, township and range;) county of state of; that is necessary and actually needed by to be used as a medicine for the disease of; that it is not intended as a beverage nor to sell nor to give away, and that I am over twenty-one years of age. I therefore make application to, druggist for said liquor.

.....Applicant.

Subscribed in my presence and sworn to before me this day of, 19....

..... Pharmacist.

State of North Dakóta, county of ss.

On this day of in the year before me personally appeared known to me (or proved to me on oath of) to be the person who is described in and who executed the foregoing application and acknowledged to me that he executed the same.

.....Pharmacist.

§ 7. AMENDMENT.] Section 9360, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9360. SALES FOR MECHANICAL, SCIENTIFIC AND SACRAMENTAL PURPOSES.] Any such druggist may sell intoxicating liquors for

mechanical, scientific, and wine for sacramental purposes only, upon the written or printed affidavit of the applicant, setting forth the particular purposes for which such liquor is required, the kind and quantity desired, that it is not intended to be used as a beverage, nor to sell nor to give away, and that it is intended only for his own use, and that the applicant is over twenty-one years of age. Such affidavit shall be in the following form, and subscribed by the applicant in ink:

No. Date.....

State of North Dakota, county of ss.

I, the undersigned, do solemnly swear that my real name is; that I reside at (if in the city, name of the street must be given and if in a town or village the name of the street must be given; if in the country, the section, township and range) county of, state of; that of is required by myself to be used for purposes, to be used for; that it is not intended for a beverage, nor to sell nor to give away and that I am over twenty-one years of age. I therefore make application to, a druggist, for said liquor.

.....Applicant.

Subscribed in my presence and sworn to before me this day of 19.....

State of North Dakota, County of ss.

On this day of in the year before me personally appeared known to me to be (or proved to me on oath of) to be the person who is described in and who executed the foregoing application and acknowledged to me that he executed the same.

.....Pharmacist

§ 8. AMENDMENT.] Section 9361, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9361. QUANTITY LIMITED. BLANKS.] There shall be but one sale and one delivery of not to exceed one-half pint of any intoxicating liquors on any one affidavit to any one person in each twenty-four hours; but no druggist shall permit the drinking on his premises, nor in any apartment connected therewith and under his control, any of the intoxicating liquors purchased by affidavit or otherwise; provided, such druggist shall be permitted to sell any of the liquors mentioned herein, to any other druggist within the state holding a permit as provided in this chapter or to public or charity hospitals or to medical or pharmaceutical colleges. The affidavits provided for in sections 9359 and 9360 shall be made before the pharmacist or assistant pharmacist making sale of such liquors, upon proper printed blanks, which it is hereby made the duty of the county auditor of the county in which such sales are made to furn-

ish to such druggist at a cost equal to the actual and necessary outlay made therefor by him. Such blanks shall be in series of 100 each, numbered from 1 to 100 consecutively, and bound in book form, each series being of uniform style throughout except that no two blanks of the same series shall be of the same number. It shall be the duty of the county auditor to indorse each such book with the date of delivery and to whom made, to sign such indorsement and attest the same with his official seal, and to keep two exact printed copies, except as to numbers, of the blanks of each series, one of which shall be filed in his office and one in the office of the clerk of the district court; he shall also keep a record of the series, and of the number of each series, of such blanks furnished to each druggist, and shall, within ten days after the same are delivered to such druggist, file a copy thereof, together with a copy of the blank affidavits, in the office of the clerk of the district court of his county. For such services the county auditor shall be entitled to a fee of twenty-five cents for each series of blanks so furnished, to be paid by the druggist obtaining such blanks.

§ 9. AMENDMENT.] Section 9362, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9362. OATHS, AFFIDAVITS, PRESERVED.] All pharmacists and assistant pharmacists are hereby empowered to administer oaths for the purpose of this chapter, and no such affidavit shall be received by any pharmacist or assistant pharmacist until it shows on its face that it has been properly subscribed and sworn to by the applicant. The affidavits provided for in this section shall be retained by the druggist in the original book form, and on or before the first day of each month, shall, together with the affidavit of such druggist that the liquors therein contained [mentioned] are all the intoxicating liquors sold by him during the month, except liquors sold to other druggists, be returned intact and filed in the office of the clerk of the district court of the county where the permit was issued, where they shall be safely kept for the period of two years from the date of filing. Before said affidavits shall be received or filed by said clerk of the district court he shall make strict examination of the copies of affidavits and records of numbers thereof furnished him by the county auditor, and ascertain whether such druggist has returned all affidavits furnished him in blank by the county auditor; and if any such affidavit or blank is missing, said clerk shall require such druggist to file instead thereof his affidavit, showing as near as he can what has become of such affidavit or blank; and any person having a permit to sell intoxicating liquors under the provisions of this chapter, shall each month at the time he files the affidavit herein provided for, also file with the clerk of the district court an affidavit setting forth the amounts and kinds of liquors, as near as can be done, which such person or

firm of which he is a member has on hand the day such affidavit is made, as well as the amounts and kinds of liquors he has purchased or procured during the preceding month and the name or names of the persons, companies or corporations and their place of doing business, from whom, and the date on which such liquors were purchased or procured.

§ 10. AMENDMENT.] Section 9363, revised codes of the state of North Dakota, 1905, be and the same is hereby amended to read as follows:

§ 9363. FEES, DISPOSITION OF.] For each series of affidavits filed under the provisions of this chapter, the clerk of the district court shall collect one dollar and fifty cents from the druggist filing the same, or the proportionate part thereof for the number filed, which shall be paid by him on the first day of each month into the county treasury for the benefit of the general county fund. The clerk of the district court shall receive no fees for his services under this chapter, except a salary of fifteen dollars per annum for each one thousand inhabitants in such county, the number to be determined by the last census return of such county, but in no case shall such salary exceed in the aggregate the sum of one thousand dollars per annum, to be paid by the county commissioners as other salaries.

§ 11. AMENDMENT.] Section 9364, revised codes of the state of North Dakota, 1905, be and the same is hereby re-enacted to read as follows:

§ 9364. PENALTY. RECORD OF SALES.] Every person, whose affidavit so made for the purpose of obtaining intoxicating liquors shall be false in any material matter, shall be deemed guilty of perjury, and is punishable by imprisonment in the penitentiary not less than one and not exceeding two years, or in the county jail not less than six months. Any person who shall subscribe any name or character other than his own name to any affidavit for the purpose of obtaining intoxicating liquors as provided herein, shall be deemed guilty of forgery in the fourth degree, and punished therefor by imprisonment in the penitentiary not exceeding two years and not less than one year. Any person who shall sell or furnish any intoxicating liquors so obtained by him upon affidavit or certificate, to others as a beverage, or shall use the same as a beverage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars and by imprisonment in the county jail not less than thirty nor more than ninety days. Every druggist shall keep a book wherein shall be recorded, daily, all sales of intoxicating liquors made by him or his employes, showing the name and residence of the purchaser, and kind and quantity of liquors sold, the purpose for which it was sold, and the date of sale. Such record and affidavit shall be open for the inspection of the public at all reasonable times during

business hours, and any person so desiring may take memoranda or copies thereof.

§ 12. AMENDMENT.] Section 9365, revised codes of the state of North Dakota, 1905, be and the same is hereby re-enacted to read as follows:

§ 9365. FALSE AFFIDAVIT. OTHER VIOLATIONS. PENALTIES.] Any druggist or pharmacist, or assistant pharmacist in his employ, who shall fail or neglect to make and keep a record as herein provided of any intoxicating liquors by him sold before the same are delivered, or shall refuse any person an examination of such records or the taking of memoranda or copy therefrom at any time during business hours; or who shall sell, barter or give away any such liquors at any place not designated in his permit or upon any affidavit other than those herein provided; or shall make any false affidavit as to any sales made by him or his employes, or shall fail to sign the certificate to the signature of any applicant for such liquor prior to the delivery thereof, or shall sign any false certificate to any such affidavit, or shall mutilate or remove any affidavit from the book to him issued as aforesaid; or shall fail to return the same as hereinbefore provided; or shall sell any intoxicating liquor to any person whom he has reason to believe desires the same to use as a beverage; or sell liquor when he has reason to believe the liquor sold is not a remedy for the ailment described in the affidavit therefor; or shall sell, barter or give away any intoxicating liquors to any minor, any person under the influence of liquor, or who is in the habit of becoming intoxicated, or who shall allow such liquor sold as a medicine or otherwise to be drunk on his premises, or premises under his control; or in any manner omit any act required of him herein, or violate any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred nor more than one thousand dollars, and be imprisoned in the county jail not less than ninety days nor more than one year; and shall forfeit his permit issued under the provisions of this chapter, and his right to obtain a permit within five years next thereafter; and in all cases when forfeitures are provided under the provisions of this chapter, the court shall declare the same on rendering judgment in the action.

§ 13. REPEAL.] All acts and parts of acts in any manner in conflict with this act are hereby expressly repealed.

Approved March 15, 1909.

CHAPTER 184.

[H. B. No. 208—Bjorndahl]

CERTAIN ADVERTISING PROHIBITED.

AN ACT to Prohibit the Printing, Publishing, Circulating or Distributing of Advertisements or Advertising Matter Relating to the Treatment or Cure of Venereal Diseases or Disorder or Diseases of the Sexual Organs, or Relating to Any Medicines, Drugs, Drug Compounds, Appliances or Means for Causing Miscarriage or Abortion or Regulating or Re-establishing Suppressed Menses, and Providing Punishment for the Violation of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CERTAIN ADVERTISING PROHIBITED. PENALTY.] Any person who shall advertise, in his own name or the name of another person, firm or pretended firm, association, corporation, or pretended corporation, or in any newspaper, pamphlet, circular or other written or printed paper or the owner, publisher or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him an advertisement of the treatment or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality", or shall advertise in any manner that he is a specialist in diseases of the sexual organs or diseases caused by sexual weakness, self-abuse or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, or who shall advertise any medicine or means whereby the monthly periods of women can be regulated, or the menses re-established if suppressed, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months.

§ 2. DISTRIBUTING UNLAWFUL.] Any person publishing, distributing or causing to be distributed or circulated, any of the advertising matter hereinbefore prohibited shall be guilty of a misdemeanor and punished as prescribed in section one of this act.

Approved March 16, 1909.

CHAPTER 185.

[H. B. No. 101—Olson]

LIQUOR ADVERTISING.

AN ACT Prohibiting Liquor Dealers, Breweries and Wholesale Liquor Houses from Advertising Within the State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO ADVERTISE.] It is hereby declared to be unlawful for any person, firm or corporation, to publish or circulate advertising matter, send out or have within this state, or by any means to advertise for the purchase or the sale of intoxicating liquors.

§ 2. PENALTY.] Any person, firm or corporation violating the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than fifty dollars, or by imprisonment in the county jail for not less than ten days, nor more than thirty days.

Approved March 11, 1909.

CHAPTER 186.

[S. B. No. 79—Pierce]

SOLICITING ORDERS FOR LIQUORS UNLAWFUL.

AN ACT to Amend Chapter 192 of the Session Laws of 1907, Entitled "An Act to Prohibit the Soliciting of Orders for the Future Delivery Without This State of Intoxicating Liquors, to be Transported Into This State to be Used or Sold in Violation of the Laws Thereof, and Providing a Penalty for Its Violation."

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Chapter 192 of the session laws of 1907 be and the same is hereby amended so as to read as follows, to-wit:

§ 1. UNLAWFUL.] It is hereby declared to be unlawful for any person to solicit or procure from, or to aid in soliciting or procuring from, any person within this state, not a person holding a permit authorizing the sale of intoxicating liquors, any order, direction or instruction providing for the delivery, purchase or sale, either within or without the state of North Dakota, to be used as a beverage therein, within the meaning of chapter 65 of the revised codes, any spirituous, malt, vinous, fermented or other intoxicating liquors.

§ 2. PENALTY.] Any person violating the provisions of section one of this act shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than two hundred nor more than one thousand dollars, and be imprisoned in the county jail not less than ninety days nor more than one year, and for every succeeding offense shall be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not exceeding two years.

Approved February 26, 1909.

CHAPTER 187.

[H. B. No. 117—McCrea]

INTOXICATING LIQUOR DEFINED.

AN ACT to Amend Section 9366 of the Revised Codes of North Dakota, as Amended by Chapter 191 of the Laws of 1907, Defining Intoxicating Liquors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 9366. INTOXICATING LIQUORS DEFINED.] The following liquors are hereby declared to be intoxicating and their intoxicating quality shall, by all courts, be presumed, viz: Alcohol, whiskey, rum, brandy, beer, ale, porter, wine and hard cider, also all spirituous, malt, vinous, fermented or other intoxicating liquors or mixtures thereof by whatsoever name called whether mentioned in section one of this act or not, that will produce intoxication of any degree; or any mixtures of such, or any kind of beverage whatsoever, which retaining the alcoholic principle or other intoxicating qualities as a distinctive force, may be used as a beverage and become a substitute for the ordinary intoxicating drinks, or any liquors or liquids which are made, sold or offered for sale as a beverage and which shall contain coculus indicus, copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, tobacco, darnal seed, extract of logwood, salts of zinc, copper or lead, alum or any of its compounds, methyl alcohol or its derivatives, amyl alcohol or any extract or compound of any of the above ingredients, shall be considered and held to be intoxicating liquors within the meaning of this chapter.

§ 2. EMERGENCY.] Owing to the inadequate definition of intoxicating liquors now existing, there is an emergency existing and this act shall take effect immediately upon its passage and approval.

Approved March 11, 1909.

PURE FOODS, DRUGS AND LIQUORS

CHAPTER 188.

[S. B. No. 67—Kennedy]

SANITATION OF FOOD PRODUCING ESTABLISHMENTS.

AN ACT Providing for the Sanitation of Bakeries, Canneries, Packing Houses, Slaughter Houses, Dairies, Creameries, Cheese Factories, Confectioneries, Restaurants, Hotels, Groceries, Meat Markets, and All Other Food Producing Establishments, Manufacturies or Other Places Where Food is Prepared, Manufactured, Packed, Stored, Sold or Distributed, and Vehicles in Which Food Is Placed for Transportation; Regulating the Health of Operatives, Employes, Clerks, Drivers and All Other Persons Working on the Premises Who Handle the Material From Which Food Is Prepared or the Finished Product; Defining Food; Regulating the Wholesomeness of Food Manufactured, Prepared, Packed, Stored, Sold, Distributed or Transported, and Defining the Duties of the Food Commissioner of the North Dakota Government Agricultural Experiment Station, and Providing Penalties for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TO WHAT PLACES ACT APPLIES.] Every building, room, basement or cellar occupied or used as a bakery, confectionery, cannery, packing house, slaughter house, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market or other place or apartment used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated and conducted with strict regard to the influence of such condition upon the health of the operatives, employes, clerks or other persons therein employed, and the purity and wholesomeness of the food therein produced; and for the purpose of this act the term "food", as used herein, shall include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

§ 2. CONTENTS OF PLACES, AND UTENSILS USED MUST BE PROTECTED.] The floors, sidewalls, ceilings, furniture, receptacles, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products, shall at no time be kept in an unclean, unhealthy and unsanitary condition, and for the purpose of this act, unclean, unhealthful and unsanitary conditions shall be deemed to exist if food in the process of manufac-

ture, preparation, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt and, as far as may be necessary, by all reasonable means from all other foreign or injurious contamination; and if the refuse, dirt and the waste products subject to decomposition and fermentation, incident to the manufacture, preparation, packing, storing, selling, distributing and transporting of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets and other receptacles, chutes, platforms, racks, tables, shelves and all knives, saws, cleavers and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning and all other processes are not thoroughly cleaned daily, and if the clothing of operatives, employes, clerks or other persons therein employed is unclean.

§ 3. FURTHER SANITARY REQUIREMENTS.] The sidewalls and ceilings of every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen shall be well plastered, wainscoted or ceiled with metal or lumber and shall be oil painted or kept well lime washed, and all interior wood work in every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be kept well oiled or painted with oil paints, and be kept washed clean with soap and water; and every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food, shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable non-absorbent material which can be flushed and washed clean with water.

§ 4. FLY SCREENS REQUIRED.] The doors, windows and other openings of every food producing or distributing establishment during the fly season shall be fitted with self-closing screen doors and wire window screens of not coarser than fourteen mesh wire gauze.

§ 5. TOILET ROOMS PROVIDED.] Every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have convenient toilet or toilet rooms separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material and shall be washed and scoured daily. Such toilet or toilets shall be furnished with separate ventilating flues or pipes, discharging into soil pipes, or on outside of the building in which they are situated. Lavatories and wash rooms shall be adjacent to toilet rooms, and shall be supplied with soap, running water and towels, and shall be maintained in a sanitary condition. Operatives, employes, clerks and all other persons who handle the material from which food is prepared, or the finished product, before beginning work or after visiting toilet or toilets, shall wash their hands and arms thoroughly in clean water.

§ 6. CUSPIDORS FURNISHED.] Cuspidors for the use of operatives, employes, clerks or other persons, shall be provided whenever necessary, and each cuspidor shall be thoroughly emptied and washed out daily with disinfectant solution, and five ounces of such a solution shall be left in each cuspidor while it is in use. No operative, employe or other person shall expectorate on the floor or sidewalls of any building, room, basement or cellar where the production, manufacture, packing, storing, preparation or sale of any food is conducted.

§ 7. NOT USED FOR SLEEPING PURPOSES.] No person or persons shall be allowed to live or sleep in any room of the bake shop, kitchen, dining room, confectionery, creamery, cheese factory, or place where food is prepared, served or sold.

§ 8. DISEASES ENUMERATED.] No employer shall require, permit or suffer any person to work, nor shall any person work, in a building, room, basement, cellar or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution and transportation of food who is affected with any venereal disease, smallpox, diptheria, scarlet fever, yellow fever, tuberculosis, or consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, (epidemic), epidemic dysentary, measles, mumps, German measles (Rothein), whooping cough, chicken pox or any other infectious or contagious disease.

§ 9. INSPECTOR MAY ABATE VIOLATIONS.] The chief inspector or deputy inspector or any agent of the food commissioner, of the experiment station at Fargo, shall have full power at all reasonable times to enter and inspect every building, room, basement or cellar occupied or used for the production for sale, manufacture for sale, storage, sale, distribution or transportation of food and all utensils, fixtures, furniture and machinery used as aforesaid, and if upon inspection any food producing or distributing establishment, conveyance, employer, operative, employe, clerk, driver or other person is found to be violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storing, sale, distribution or transportation of food is being conducted in a manner detrimental to the health of the employes and operatives and the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the examination or inspection shall furnish evidence of said violation to the attorney general and district attorney, who shall prosecute all persons violating any of the provisions of this act, or shall report such conditions and violations to the food commissioner, who shall issue an order to the person or persons in authority at the aforesaid establishment to abate the condition or violation or make such improvements as may be necessary to abate them, within the period of five days or such reasonable time as may be required in which to abate them. Such order shall be in writing,

and the person receiving the order shall have the power of appeal from the order and instructions, and may within five days from the issuance of the order appear in person or by attorney before the food commissioner of the experiment station at Fargo to give reason why such order or instruction should not be obeyed.

§ 10. PENALTY.] Any person who violates any of the provisions of this act or who refuses to comply with any lawful orders or requirements of the food commissioner, duly made in writing, as provided in section nine of this act, shall be guilty of a misdemeanor, and on conviction shall be punished for the first offense by a fine of not less than ten dollars nor more than fifty dollars; for the second offense by a fine of not less than fifty dollars nor more than one hundred dollars and for the third and subsequent offense by a fine of two hundred dollars, and imprisonment in the county jail for not less than thirty nor more than ninety days, and each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the food commissioner of the experiment station at Fargo, shall constitute a distinct and separate offense.

Approved March 15, 1909.

CHAPTER 189.

[S. B. No. 107—Kennedy]

PURE LIQUOR LAW.

AN ACT to Provide for Better Enforcement of the Laws Against the Manufacture and Sale of Intoxicating Liquors, Providing for Inspection, Testing and Analysis of Said Beverages, Prescribing a Penalty for the Violation Thereof, and Charging the North Dakota Government Agricultural Experiment Station With the Enforcement Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. EXPERIMENT STATION TO ENFORCE LAW.] The North Dakota government agricultural experiment station at Fargo is hereby charged with the enforcement of the provisions of this act, and is hereby authorized to inspect and collect samples of the various beverages included under the provisions of this act and on sale in North Dakota or being shipped into the state at such times and places and to such extent as it may determine; and said station may appoint for the enforcement of the terms of this act such agent or agents as it may seem necessary, and such agent or agents as are duly authorized for this purpose shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and containers used in the sale or transportation of the beverages named herein or products sold in imitation thereof. They shall have power and authority to open any

package, container, or vessel containing such article which may be manufactured, shipped, sold or exposed for sale, in violation of this act. They may inspect the contents therein and may take samples therefrom for analysis. They shall have authority to prevent the sale or manufacture of products not complying with the provisions of this act. All clerks, bookkeepers, express agents, railroad officials, employees or common carriers shall render to them every assistance in their power when so requested in tracing, finding or discovering the presence of any prohibited article named in this act.

§ 2. WHAT IS INCLUDED.] For the purposes of this act there shall be included all fermented and spiritous liquors, malt liquors, wines, ciders and all so-called fruit "ades," imitation ciders and beverages under whatever name or description to be manufactured, sold or offered for sale and to be used as a beverage or a substitute for intoxicating liquors, also all bitters, tonics or other alcoholic preparations, where a license for the sale of the same is required under the rulings of the internal revenue department of the United States.

§ 3. BEVERAGES DEFINED.] For the purposes of this act the following definitions shall be deemed as correctly defining the products named:

1. Whiskey is the product derived by distillation from the properly prepared and fermented mash of malted sound cereals, or sound cereals the starch of which has been hydrolized by malt and which distillate has been stored in wood under normal conditions for not less than four years, and it shall be labeled true to name.

2. Rum is the spirits made by the proper distillation from the clean, sound juice of the sugar-cane, the clean, sound massecurite made therefrom, clean, sound molasses massecurite, or any sound, clean, intermediate product, save sugar, properly fermented and which has been stored for not less than four years in wood under normal conditions for aging.

3. Brandy is the properly distilled spirit made from wine and stored in wood for not less than four years and kept under normal conditions during the process of aging.

4. Malt liquor or malt is a beverage made by the alcoholic fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains, decorticated and degerminated grains.

5. Beer is a malt liquor produced by bottom fermentation and lager beer is beer stored in casks for a period of at least three months.

6. Malt beer is beer made of an infusion, in potable water of barley malt and hops.

7. Ale is a malt liquor produced by top fermentation.

8. Porter and stout are varieties of malt liquors made in part from highly roasted malt.

9. Wine is the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, and the usual cellar treatment, fortified or unfortified when properly labeled to show its true character.

10. Cider is the product made by the normal alcoholic fermentation of apple juice and the usual cellar treatment without fortification.

11. The terms "compound whiskey," "rum," or "brandy" shall apply to the products composed of, or prepared from, neutral spirits and whiskey, with or without color and flavor.

12. The terms "imitation whiskey," "brandy" or "rum" shall apply to that product prepared from neutral spirits, with or without color and flavor.

13. Artificial "ades" and beverages shall include all the so-called "soft" drinks, when made from sound and harmless ingredients intended to be put upon the market or sold as a beverage either in keg, bottle or other containers.

§ 4. How labeled.] There shall be shown on the face or main label, to be attached to each container, a statement showing the amount by measure, the alcoholic strength and the true name and address of the manufacturers.

§ 5. Violations in labeling.] It shall be unlawful to sell, offer for sale, to manufacture, or to ship into the state any so-called compound, or imitation whiskey, brandy, rum, wine, or other imitation spirituous liquor, and any party violating this provision of the act shall, on conviction, be fined not less than two hundred and fifty dollars nor more than one thousand dollars for each offense, or confined for not less than six months nor more than one year in jail, or both, at the discretion of the court, and all such illegal products shall be seized and destroyed by order of the court.

§ 6. Penalty for violation.] Any person selling or offering for sale or having in his possession for sale or having stored for sale or distribution within the state any spirituous liquor or other beverage, as herein defined, without having first secured a license for the sale of the particular product mentioned, shall constitute a misdemeanor, and on conviction the person shall be fined not less than one thousand dollars, or not less than six months in jail, or both, at the discretion of the court.

§ 7. License required.] Before any fermented, spirituous or malt liquors, wines, ciders, fruit-ades, imitation ciders, pops and beverages, as described in section three, to be used as beverage or medicine, is offered or exposed for sale in this state, the manufacturer, importer, or person causing the same to be sold, offered or exposed for sale, shall file with the North Dakota government agricultural experiment station at Fargo, during the month of December of each year, a certified copy setting forth the name of each and every brand, the class of the beverage bearing a distinctive name, brand or trademark, which manufacturer, importer or person has to

sell, offer or expose for sale in this state during the calendar year next succeeding said application, and shall deposit with said station a pint sample of said product labeled in the manner prescribed by this act. The fees for each beverage and brand shall be as follows:

For one brand each of whiskey, rum or brandy	$150.00
For each additional brand	75.00
For each brand of malt liquor	10.00
For each brand or class of wine	25.00
For each brand or class of cider	10.00
For each brand or class of artificial ades and other beverages	50.00
For each brand or class of pops	10.00

Providing, always, that the placing of any new brand on the market at any time during the calendar year shall be preceded by the filing of such statement and the depositing of such brands with the said station before the issuance of a license. Each manufacturer, importer, jobber or person who has complied with the provisions of this act and has paid the fees, as prescribed relative to the filing of the aforesaid certified statement and the depositing of a sample, in accordance with the provisions of this act, shall be entitled to receive a certificate from the director of said station setting forth said facts. The said director shall pay all moneys received for fees, as provided for in this act, to the treasurer of the North Dakota government agricultural experiment station, which treasurer, when said money is appropriated by the board of trustees of said station, shall pay all money or so much as may be necessary, to meet the expenses of enforcing this act. Said board of trustees shall report in full the expenditures incurred for salaries, laboratory expenses, chemical apparatus and supplies, traveling expenses, office help, attorney fees and printing. Whenever a manufacturer, importer, or jobber shall have filed a statement, as required by the provisions of this act, and paid the license fee as prescribed in this section, no other agent, seller or manufacturer, importer or jobber, shall be required to file such statement or pay such fee for the same brands.

§ 8. STANDARDS ADOPTED.] In all the foregoing definitions the standards of purity, as adopted jointly by the association of state and national food and dairy departments and the association of official agricultural chemists, and at the time in force shall be the official standards.

§ 9. FACTS, HOW TRANSMITTED.] Whenever said station shall find by its analysis that adulterated, misbranded, insufficiently labeled, compound, or imitation spirituous liquors or beverages have been on sale in this state, it shall forthwith transmit the facts so found to the attorney general and to the state's attorney of the county in which the product was found.

§ 10. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo relating to the analy-

sis of any spirituous or malt liquors or beverage, shall be presumptive evidence of the facts therein stated.

§ 11. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the attorney general and the state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station as provided for in sections nine and ten of this act.

§ 12. WHAT CONSTITUTES VIOLATION.] The doing of anything prohibited by this act shall be evidence of the violation of the provisions of this act relating to the things so prohibited, and the omission to do anything directed to be done shall be evidence of a violation of the provisions of this act relative to the things so directed to be done, and any person who shall sell any unbroken package of spirituous liquors or beverages or any part thereof which has not been labeled as herein provided, shall be guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than five hundred dollars, together with the costs of the suit in an action caused to be brought by the director of the North Dakota government agricultural experiment station, or his agent, in the name of the people of the state of North Dakota.

§ 13. STATION TO MAKE ANNUAL REPORT.] The said station shall make an annual report to the governor upon the work done under this act and said report may be included in the report which said station is already authorized by law to make to the governor. Said station is further authorized to publish and distribute bulletins giving the results of such analyses and investigations as have been made under authority of this act, and the said station shall in these bulletins give the names and addresses of the manufacturers or jobbers, the name of the retailer, when known, or the consignee, and the facts as brought out by the analyses or by other investigations.

§ 14. NO ACTION IN COURT.] No action shall be maintained in any court in the state on account of and sale or other contract made in violation of this act.

§ 15. REPEAL.] All acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Approved March 15, 1909.

RAILROADS

CHAPTER 190.

[H. B. No. 83—Moen, of Benson]

DINKEY CABOOSES PROHIBITED.

AN ACT to Prohibit the Use of Four Wheel Cabooses, Known as Dinkey Cabooses, on All Railroad Trains Operated in the State of North Dakota, to Prevent the Use of Box Cars as Cabooses and to Fix the Minimum Size and Manner of Construction of All Cars Used as Cabooses and Fixing the Penalties for Violation of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO USE.] On and after the first day of July, 1910, it should be unlawful for any person, corporation or company operating any railroad or railway in this state to require or permit the use of any caboose cars, unless said caboose cars shall be at least twenty-four feet in length, exclusive of platforms and shall be provided with a door in each end thereof and with suitable cupolas, platforms, guard rails, grab irons and steps for the safety of persons in alighting or getting on said caboose cars, and said caboose cars shall be equipped with at least two four-wheel trucks.

§ 2. PENALTY.] Any person, corporation or company operating any railroad or railway in the state violating any of the provisions of section one of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars for each offense.

Approved March 16, 1909.

CHAPTER 191.

[S. B. No. 167—Crane]

RAILROAD CROSSINGS.

AN ACT Amending Section 4298 of the Revised Codes of 1905, Relating to Crossings When Land on Both Sides of Railroad is Owned by One Person, and Providing Penalties for the Violation of the Provisions of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 4298. CROSSINGS OVER RAILROADS. PENALTY FOR FAILURE TO PROVIDE.] When any person owns land on both sides of any rail-

way the corporation or individual owning or operating such railway shall, when requested to do so in writing, make and keep in good repair a proper cattle guard and cause-way or other adequate means of crossing such railway at such reasonable place or places as may be designated by the land owner or his agent; provided, that the type of all cattle guards required by law to be constructed in this state shall, before being installed, be approved by the commissioners of railroads. The owner or person in possession of the land through which the railroad passes may recover, of the person or corporation operating such railroad, the sum of twenty-five dollars for every thirty days of default on the part of the person or corporation operating the railroad, after written demand served on an officer, road-master or section foreman of the operating company has designated the place for the erection of the cattle guarded crossings or the road crossing requested, and a like penalty for failure to keep such cattle guards, or road crossings, in good repair, after written notice has been served upon the operating company that such repairs are necessary.

Approved March 13, 1909.

CHAPTER 192.

[S. B. No. 109—Palmer]

REMOVING LOADED CARS FROM SIDETRACKS.

AN ACT Providing for the Removal of Cars From Spurs and Sidetracks of Railroads That Have Been Loaded for Shipment, for Billing the Same by Common Carriers and Providing Penalties for Failure to Do So.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LOADED CARS MUST BE REMOVED. NOTICE REQUIRED.] Whenever any car shall be loaded with any kind of grain for shipment on any spur or sidetrack of any railroad in this state of North Dakota, it shall be the duty of such railroad or common carrier within forty-eight hours from the time of receiving written notice that said car is ready to be billed for shipment, giving in such notice the name of the consignee, the consignor, the number of the car and the place where the same stands and the place to which car is to be shipped, which notice shall be given to the station agent of the station nearest the place where said car is located on the line of road over which said car is to be shipped, bill said car or cars as provided in said notice and mail to the shipper a shipping bill thereof directed to the postoffice address given in such notice, and to remove said car or cars from the said side track or spur where the same has been loaded for shipment.

§ 2. PENALTY.] Every railroad or common carrier who neglects or fails to comply with the provisions of this act shall be liable to the owner of the grain mentioned in section one of this act in the sum of fifty dollars for each twenty-four hours that shall elapse after the time mentioned in this act for billing and removing from said spur or sidetrack, to be collected in a civil action in the name of the owner of such grain.

§ 3. CARRIER LIABLE FOR LOSS.] Should any of the grain mentioned in section one of this act be stolen or destroyed at any time after the giving of the notice in this act provided for, the common carrier to whom such notice shall have been given, shall be liable to the owner of such grain for any loss so occasioned and for any loss caused by fire, to be recovered in a civil action in the name of the owner of such grains.

Approved March 11, 1909.

CHAPTER 193.

[H. B. No. 204—Nyhus]

BLOCKING RAILROAD CROSSINGS.

AN ACT Prohibiting the Blocking or Obstructing of Railroad Crossings on Rural Highways or on Village or City Streets by Railroad Companies or Their Employes by Allowing Cars, Engines or Train of Cars to Stand on Such Crossings for a Longer Period Than Ten Minutes at Any One Time, and Providing Penalties for Violations of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO BLOCK OR OBSTRUCT CROSSINGS.] Any railroad company, conductor, brakeman, engineer, switchman or other employe of any railroad company, in charge of or in control of any railroad car, cars, engines or train of cars, who shall, for a period of more than fifteen minutes at any one time, obstruct or block any railroad crossing or any rural highway or on any village or city street by placing thereon or permitting any car, cars, engines or train of cars to stand or remain stationary on any such crossings, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than ten dollars or more than fifty dollars for each offense.

§ 2. EXCEPTION.] The provisions of this act do not apply to cities, towns or villages that have or may have ordinances covering the same.

Approved March 16, 1909.

RAILROAD COMMISSIONERS

CHAPTER 194.

[S. B. No. 212—McArthur]

SESSIONS OF RAILROAD COMMISSIONERS.

AN ACT to Establish Regular Sessions for the State Board of Railway Commissioners and Fixing the Time, Manner and Place Where Such Sessions Shall Be Held; Otherwise Defining Their Powers and Duties; Defining the Duties of the Attorney General in Relation Thereto, and Providing an Appropriation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SESSIONS, HELD WHERE AND TIME.] The board of railroad commissioners shall hold at least five sessions annually for the purpose of hearing complaints and taking evidence. The first session shall be held at their office at the state capitol in the city of Bismarck, county of Burleigh, commencing on the first Tuesday after the first Monday in January of each year. The second session shall be held in the city of Minot, county of Ward, commencing on the first Tuesday after the first Monday in April of each year. The third session shall be held in the city of Fargo, county of Cass, commencing on the first Tuesday after the first Monday in July of each year. The fourth session shall be held in the city of Grand Forks, county of Grand Forks, commencing on the first Tuesday after the first Monday in October of each year. The fifth session shall be held in the city of Carrington, in the county of Foster, commencing on the first Tuesday after the first Monday in December of each year; provided, further, that each of said sessions shall be held for a period of not less than three days, and each session shall begin at nine o'clock a. m. When practicable, such sessions shall be held in the court house of the respective counties.

§ 2. SPECIAL SESSIONS.] Whenever from any cause it appears that the public interest demands that a special session of said board be held, the president of the commission or the governor may call a special meeting of said board, to be held at any of the places aforenamed, by giving ten days' previous notice thereof by advertisement published in a newspaper at the place where meeting is to be held.

§ 3. EMPLOY STENOGRAPHER.] The board of railroad commissioners is hereby authorized to employ a stenographer whenever said board shall require such services in connection with their official

duties, and there is hereby appropriated the sum of twelve hundred dollars, or so much thereof as may be necessary, to defray the expense of such stenographic work for the present biennial period.

§ 4. REPORT TO GOVERNOR.] It shall be the duty of the board to report in writing its findings to the governor within ten days after the close of each session.

§ 5. DUTY OF ATTORNEY GENERAL.] It shall be the duty of the attorney general or his deputy to appear for and represent the state at all sessions of the board.

§ 6. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 7. EMERGENCY.] Whereas, an emergency exists this act shall take effect on and after its passage and approval.

Approved March 15, 1909.

CHAPTER 195.

[H. B. No. 348—Johnson, of Bottineau]

SALARY SECRETARY RAILROAD COMMISSIONERS.

AN ACT Fixing the Salary of the Secretary of the Board of Railroad Commissioners and Requiring Him to Reside at the Capital City.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALARY FIXED.] The secretary of the board of railroad commissioners shall receive an annual salary of two thousand dollars and shall reside at the capital city. He shall have no other occupation, but devote his entire time to the work of the commission.

§ 2. EMERGENCY.] Whereas, an emergency exists, this act shall take effect on and after its passage and approval.

Approved March 16, 1909.

REVENUE AND TAXATION

CHAPTER 196.

[H. B. No. 228—Duncan]

AUDITOR'S NOTICE OF TAX SALE.

AN ACT to Amend Section 1574 of the Revised Codes of 1905, Relating to Auditor's Notice of Tax Sale.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1574 of the revised codes of 1905 is hereby amended to read as follows:

§ 1574. AUDITOR'S NOTICE OF SALE.] The county auditor under the direction of the board of county commissioners, or a majority thereof, shall give notice of the sale of real property by the publication thereof, once a week for three consecutive weeks, the first of which publications shall be made not less than nineteen days before the day of sale, in such newspaper as may be designated by the county commissioners for that purpose in the county, if there be one, and if there be no paper published in his county, he shall give notice by a written or printed notice posted on the door of the courthouse or a building in which courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale. In case the newspaper so designated has a daily edition then such delinquent tax list shall be published in one issue of the daily edition, and in two issues of the weekly edition of the same paper, so selected by the board of county commissioners. Such notice shall contain a notice that all lands on which the taxes of the preceding year (mentioning it) remain unpaid, will be sold and the time and place of sale, which time shall be the second Tuesday in the December following, and said notice must contain a list of the lands to be sold and the amount of taxes and penalty due, to which amount the auditor shall add to each description of land so advertised the sum of twenty-five cents, and for each description of town lot, the sum of ten cents, to defray the expenses of advertising, and the cost of such advertising shall be paid by the county commissioners at the expiration of the sale upon the affidavit of the publisher; provided, that in no case shall the property so advertised be charged for such advertising an amount exceeding the sum actually paid for the same.

Approved March 16, 1909.

CHAPTER 197.

[H. B. No. 335—Steen]

DELINQUENT PERSONAL PROPERTY TAXES.

AN ACT to Amend Section 1554 of the Revised Codes of 1905, of North Dakota, Relating to the Delinquent Personal Property Taxes, When Due.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1554 of the revised codes of North Dakota for the year 1905 is amended and re-enacted to read as follows:

§ 1554. DELINQUENT PERSONAL PROPERTY TAXES, WHEN DUE. PENALTY. DISTRESS.] All personal property taxes shall become due on the first day of December in each and every year, for which the tax was levied, and become delinquent on the first day of March next after they become due, and thereupon a penalty of five per cent shall attach and be charged upon all delinquent taxes, and thenceforth there shall be charged interest at the rate of one per cent per month on the original amount of the tax until the same is paid. The county treasurer shall, during the month of January preceding the time when such tax shall become delinquent, give notice of the fact by mailing to each person, firm or corporation, a written notice stating the amount of tax due from such person, firm or corporation, and the date when the same shall become delinquent. On or before the first day of September in each year the county treasurer shall make out a list of the unpaid delinquent personal property taxes, in the same order as they appear on the tax list, and shall, on or before the fifteenth day of September thereafter, notify by mail each of the delinquents that unless such taxes are paid on or before the fifteenth day of October, such taxes will be placed in the hands of the sheriff for collection, and the county treasurer shall on said fifteenth day of October deliver such list of delinquent taxes to the sheriff of his county, who shall immediately proceed to collect all such delinquent personal property taxes, and if such taxes are not paid upon demand he shall distrain sufficient goods and chattels belonging to the person, firm or corporation charged with such taxes, if found within the county, to pay the same, with the said penalty of five per cent and all accruing interest and costs, and shall immediately proceed to advertise the same by posting notices in three public places in the town or district where such property is taken, stating the time when, and the place where, such property shall be sold, and the amount of said delinquent tax, together with the penalty and accruing interest, which place of sale shall be at the residence or place of business of the person, firm or corporation whose goods

have been distrained, or in case such person, firm or corporation has no residence or place of business within the town or district where such goods have been distrained, then at the place of sale of mortgaged chattel property within such town or district and no personal property shall be exempt from such distrain and sale; and if the tax for which said property is distrained, together with the penalty and accrued interest and costs if not paid, before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such sheriff or his deputy shall proceed to sell such property at public vendue, or so much thereof as shall be sufficient to pay such taxes, penalty, interest and costs of such distress and sale, and any surplus arising from said sale shall be disposed of as in case of sale of mortgaged personal property. On the first day of each month after receiving such list from the county treasurer such sheriff shall make out and file with the county treasurer a statement of the personal property tax collected by him since the date of his last preceding statement, giving the name, town or district and postoffice address of each person, firm or corporation from whom collected, and the amount of the tax, including the penalty and interest collected from each, and at the same time turn over to such county treasurer the moneys collected as shown by such statement, and the treasurer shall issue receipts for the same as provided in section 1546, mailing such receipt to the person, firm or corporation entitled thereto. Such sheriff shall at the time of filing such statement with the county treasurer file a duplicate thereof with the county auditor, and shall on or before the first day of January next after receiving such list from the county treasurer file his annual statement of taxes collected as herein provided, together with the list of uncollected taxes as provided in section 1555; provided, that in case of any person having personal property assessed, and upon which the taxes are unpaid, shall in the opinion of the sheriff, be about to move out of the county, it shall be the duty of the sheriff to collect such taxes at any time after the tax list shall have been made up. The sheriff shall retain in his office the original delinquent tax list furnished him by the county treasurer, and it shall be his duty to collect at any time any taxes remaining uncancelled, unabated or unpaid, and on sending his notice for each succeeding year he shall include any unpaid balances, together with interest, penalties and costs, with the new delinquent amount, and they shall be collected in the same manner as the current delinquent tax.

Approved March 12, 1909.

CHAPTER 198.

[H. B. No. 346—Streeter]

ASSESSORS' DISTRICTS.

AN ACT to Amend and Re-enact Section 1515 of the Political Code of 1905, Relating to the Organization of Assessors' Districts and Townships, Vacancies in Such Townships and Districts, and the Compensation of Assessors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1515 of the revised codes of the state of North Dakota is amended to read as follows:

§ 1515. ASSESSORS' DISTRICTS. VACANCY. COMPENSATION.] All counties or parts of counties in this state not organized into civil townships shall be divided into assessor districts, which shall comprise the same territory as the commissioner districts of said county, excluding organized civil townships, and the district assessor thereof shall be elected at the same time that state officers are elected, and his term of office shall be two years from and after the first day of January following. In case of vacancy in the office of district assessor in any of such districts, such vacancies shall be filled by the board of county commissioners of the proper county. Each organized civil township in the state shall continue an assessor district, and there shall annually be one township assessor elected for each one of said townships, at the time the other township officers are elected; provided, that any vacancy in township assessor may be filled by appointment by the board of supervisors of said township where such vacancy exists; provided, further, that cities, towns and villages organized under the general laws of this state shall not be included in the districts provided for in this section, but assessors of such cities, towns or villages shall act with the board of county assessors in any meetings which may be held by such board of county assessors. All assessors of territory not organized into civil townships shall be paid four dollars per day each, and no more, for the time actually spent by them in making and completing said assessment. All assessors of civil townships shall receive three dollars per day, and no more, for the time actually employed in making and completing the assessment of their respective townships, but shall not receive more than sixty dollars for assessing any civil township; provided, further, that no person shall be eligible to be assessor unless he is a voter and owner of real estate in the district or township of which he seeks to be assessor.

Approved March 12, 1909.

CHAPTER 199.

[S. B. No. 24—Stevens]

REDEMPTION OF REAL ESTATE SOLD FOR TAXES.

AN ACT to Amend Section 1582 of the Revised Codes of North Dakota for the Year 1905, Relating to the Redemption of Real Estate.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1582 of the revised codes of North Dakota for the year 1905 is hereby amended so as to read as follows:

§ 1582. REDEMPTION OF REAL ESTATE.] If at said sale any piece or parcel of land shall be sold to a purchaser, the same may be redeemed at any time within three years from the date of sale by any person or corporation having an interest therein who shall pay into the treasury of the county for the credit of the person thereto entitled, the amount paid by the purchaser at the time of sale, with a penalty of five per cent and interest thereon at the rate specified in such certificate of sale together with all amounts of subsequent taxes, penalties and interest paid by the holder of such certificate of sale up to the date of redemption with interest at the rate of one per cent per month from the date of payment of such subsequent tax, which date of payment shall not be prior to the day upon which such subsequent tax became delinquent. In case any piece or parcel of land was not sold for want of bidders, then any person or corporation having an interest therein shall have the same right of redemption from the county, and on the same terms, as from a purchaser at a tax sale. The county auditor shall certify to the amount due upon such redemption, and on payment of the same to the county treasurer, he shall make duplicate receipts for the certified amount, describing the property redeemed, one of which shall be filed with the county auditor, which shall have the effect to annul the sale. If the amount so paid for the purpose of redemption be less than required by law it shall not invalidate such redemption, but the county auditor shall be liable for the deficiency to the person entitled thereto. Minors, insane persons, or persons in captivity, or in any country with which the United States is at war, having an estate in, or liens on lands sold for taxes, may redeem the same within three years after such disability ceases; but in such cases the right to redeem must be established in a suit for that purpose, brought against the party holding the title under sale. Any person who has or claims an interest in, or lien upon, any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying into the treasury a proportionate part

of the amount required to redeem the whole; and in such case the certificate of redemption shall express the estate or interest redeemed.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1909.

REWARDS

CHAPTER 200.

[S. B. No. 215—Duis]

APPREHENSION OF CRIMINALS.

AN ACT to Amend Section 10292 of the Revised Codes of North Dakota for 1905, Relating to the Offering of Reward for Apprehension of Criminals and Those Charged With Crime.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 10292 of the revised codes of North Dakota for 1905, be and the same is hereby amended to read as follows:

§ 10292. GOVERNOR MAY OFFER REWARD FOR CRIMINAL.] The governor may offer a reward, not exceeding one thousand dollars, payable out of the state treasury, for the apprehension:

1. Of any convict who has escaped from the penitentiary, or,
2. Of any person who has committed, or is charged with the commission of an offense punishable with death.
3. Of any person who is charged with having absconded with or embezzled, or unlawfully taken and carried away any funds, assets or property of any state or national bank doing business in this state.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are at large several persons charged with such crimes this law shall be in force and effect from and after its passage and approval.

Approved March 15, 1909.

SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 201.

[S. B. No. 28—Sharpe]

IMPROVEMENTS TO SCHOOL GROUNDS.

AN ACT Defining the Duties of District School Boards in Relation to the Planting, Cultivation and Protection of Trees and Shrubs Upon School House Grounds.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTIES OF DISTRICT SCHOOL BOARDS AS TO TREE PLANTING.] It is hereby made the duty of every district school board in the state of North Dakota to plant trees and shrubs upon the grounds of every school house in their district and to encourage school children to plant such trees and shrubs and to cultivate and protect the same.

§ 2. FENCES.] Where stock is permitted to run at large, it is hereby made the duty of the district school board to cause to be erected about the grounds of every school house in each district a fence sufficient to protect the trees and shrubs upon the school house grounds from destruction by live stock, and such fence shall be provided with convenient gates or stiles; provided, further, that in the construction of such fence barbed wire shall not be used.

§ 3. FUNDS FOR TREE PLANTING AND CULTIVATION.] The district school board is hereby empowered and it shall be its duty to expend not less than ten dollars annually out of the funds of the school district for the purposes mentioned in the foregoing sections.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is not at the present time any adequate law providing for the planting of trees upon school grounds and for the fencing of such school grounds, therefore, this act shall be in force and effect on and after its passage and approval.

Approved February 15, 1909.

CHAPTER 202.

[S. B. No. 116—Palmer]

SCHOOL HOUSE SITES.

AN ACT to Amend and Re-enact Section 830 of the Revised Codes of 1905, Relating to School House Sites, How They May Be Obtained and the Maximum Area Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 830 of the revised codes of 1905 is hereby amended and re-enacted so as to read as follows:

§ 830. SCHOOL HOUSE SITES, HOW OBTAINED AND MAXIMUM AREA ALLOWED.] The school board of any school district may take in the corporate name thereof, any real property not exceeding five acres in area chosen as a site for school house, as provided in this chapter, and may hold and use such tract for school purposes only. Should the owner of such real property refuse or neglect to grant and convey such site, a site for such school house may be obtained by proceeding in eminent domain, as provided in the code of civil procedure. If the site so selected is not used for the purposes for which it is taken for two successive years, it shall revert to the original owner or his assigns upon payment of the sum originally paid by the corporation. If such owner or his assigns neglects or refuses to make such repayment for one year after demand therefor by the board, such site shall be the property of the district.

Approved March 11, 1909.

CHAPTER 203.

[S. B. No. 157—Simpson]

SCHOOL HOUSE FURNISHINGS.

AN ACT to Amend and Re-enact Section 822 of the Revised Codes of North Dakota for the Year 1905.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 822. FURNITURE, MAPS, REGISTER, SCHOOL LIBRARY.] It shall furnish to each school all necessary and suitable furniture, maps, charts and apparatus, including any dictionary which is recognized as a standard authority. The school register and all school blanks used, shall be those furnished by the state department of public instruction. It may appropriate and expend each year not less than ten, nor more than twenty-five dollars for each school, or

separate department thereof, of the district for the purpose of a school library, to be selected by the school board and the county superintendent of schools from any list of books prepared by the superintendent of public instruction, and furnished by him to the county superintendent for that purpose, and it shall not purchase any books which have not been approved by the superintendent of public instruction. It shall have the care and custody of the library and may appoint as librarian any suitable person, including one of their number, but whenever practicable, the library shall be kept in the school house, and always so when school is in session. It shall make rules to govern the circulation and care of the books while in the hands of the pupils or other persons, subject to the general rules as may be prescribed by the state superintendent of public instruction, and may impose and collect penalties for injuries done to any book by the act, negligence or permission of the person who takes the same or while in his possession, but no book shall be loaned to any person not a resident of the district. It may at any time temporarily exchange any part or all of its library with any other district or person, so far as different books may be obtained, but each district shall recall its books before the close of the school term. It may at any time accept donations of books for the library, but it shall exclude therefrom all books unsuited to the cultivation of good character and good morals and manners, and no sectarian publications, devoted to the discussion of sectarian differences and creeds shall be admitted to the library. It shall be held accountable for the proper care and preservation of the library, and shall report annually to the county superintendent all library statistics which may be required by the blanks furnished for that purpose by the superintendent of public instruction.

§ 2. EMERGENCY.] An emergency exists in that there is no law now on the statute books permitting district school boards purchasing for the use of the public schools of this state any dictionary other than Webster's international dictionary, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1909.

CHAPTER 204.

[S. B. No. 234—Senate Committee on Education]

SCHOOL TREASURER'S BOND.

AN ACT to Amend Sections 811, 829, 882 and 883 of the Revised Codes of 1905, Pertaining to Education.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 811 of the 1905 revised codes of North Dakota is amended so as to read as follows:

§ 811. TREASURER'S BOND, HOW APPROVED. VACANCY, HOW FILED.] The school treasurer shall, on or before the second Tuesday in July following his election and before entering upon his duties, give a bond to the school district conditioned for the honest and faithful discharge of his duties and that he will render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bonds shall be in such sum as may be fixed by the board, but not less than double the sum to come into his hands in any one year as nearly as may be ascertained, which bond shall be signed by two or more sufficient sureties to be approved by the school board. In case the school board neglects or refuses to approve the bond of such treasurer and the sureties thereon, such treasurer may present the same to the county superintendent and serve notice thereof upon the board and due proof of such notice being made to the county superintendent, he shall, unless good cause for delay appears, proceed to hear and determine the sufficiency of the bond and the sureties thereon, and may approve or disapprove the same as the facts warrant. In case of a failure to elect a successor to any school treasurer at the expiration of his term of office the said treasurer holds over [and] he shall be required to give a new bond, within ten days after notice by the board. In case of failure so to do a vacancy shall be deemed to exist in said office and shall be filled as provided by law. In case a vacancy occurs in the office of the district treasurer, it shall be the duty of the county treasurer of the county wherein such school district is located, upon being notified by the county superintendent or clerk of such school district that such vacancy exists, to perform the duties of treasurer of such school district until the vacancy is duly filled.

§ 2. AMENDMENT.] Section 829 of the 1905 revised codes of North Dakota is amended to read as follows:

§ 829. SCHOOL HOUSES AND SITES, HOW DETERMINED. PLANS FOR SCHOOL HOUSES, HOW PREPARED. BOARD OF INSPECTORS, HOW CONSTITUTED.] Whenever in the judgment of the board it is desirable or necessary to the welfare of the schools in the district, or to provide for the children therein proper school privileges, or whenever petitioned to do so by one-third of the voters of the district, the board shall call a meeting of the voters in the district at some convenient time and place fixed by the board, to vote upon the question of the selection, purchase, exchange or sale of a school house site, or the erection, removal, or sale of a school house. Said election shall be conducted and votes canvassed in the same manner as at the annual election of school officers. Three notices of the time, place and purpose of such meeting shall be posted in three public places in the district at least ten days prior to such meeting. If a majority of the voters present at such meeting shall by vote select a school house site, or shall be in favor of the purchase, exchange

or sale of the school house, as the case may be, in accordance with such vote; provided, it shall require a vote of two-thirds of the voters present and voting at such meeting to order the removal of the school house, and such school house so removed cannot again be removed within three years from the date of such meeting; provided, further, that whenever a school house is to be purchased, erected or constructed in a common school district, the school board shall consult with the county superintendent of schools and the county superintendent of health with regard to plans providing for the proper construction, lighting, heating and ventilation; provided, further, that it shall be the duty of the state superintendent of public instruction to furnish plans for school houses of one and two rooms as will be in accord with the best ideas pertaining to heating, lighting, ventilating and other sanitary requirements.

2. The county superintendent of health, the chairman of the board of county commissioners and the county superintendent of schools of each county are hereby constituted a board for the purpose of inspecting school houses and out-buildings with reference to their sanitary condition, and whenever the county superintendent of schools shall report to said board of inspection that a school house or out-building is in an unsanitary or unsafe condition, said board shall inspect the same and shall direct the district school board to make such changes or repairs as are necessary to make such building or buildings sanitary, safe and fit for school purposes.

§ 3. AMENDMENT.] Section 882 of the 1905 revised codes of the state of North Dakota is amended so as to read as follows:

§ 882. SCHOOL YEAR AND SCHOOL WEEK DEFINED. HOLIDAYS.] The school year shall begin on the first day of July and close on the thirtieth day of June of each year. A school week shall consist of five days and a school month of twenty days. No school shall be taught on a legal holiday nor on any Saturday; provided, however, that on February the twelfth, Lincoln's birthday, February the twenty-second, Washington's birthday, and May the thirtieth, memorial day, all schools in session shall assemble for a portion of the day and devote the same to patriotic exercises consistent with that day, unless such holidays shall fall upon Saturday or Sunday, when such services shall be on the Friday preceding. A legal holiday in term time falling upon a day which otherwise would be a school day shall be counted and the teacher shall be paid therefor, but no teacher shall be paid for Saturday nor be permitted to teach on Saturday, to make up for the loss of a day in the term.

§ 4. AMENDMENT.] Section 883 of the revised codes of 1905 for the state of North Dakota, as amended by the legislature of 1907, is amended to read as follows:

§ 883. BRANCHES TO BE TAUGHT IN ALL SCHOOLS.] Each teacher in the common schools shall teach pupils as they are sufficiently advanced to pursue the same, the following branches: Orthography,

reading, spelling, writing, arithmetic, language lessons, English grammar, geography, United States history, civil government, physiology and hygiene, giving special instruction concerning the nature of alcoholic drinks and other narcotics and their effect upon the human system. Physiology and hygiene, including the nature of alcoholic drinks and other narcotics and their effect upon the human system, shall be taught as thoroughly as any branch is taught. There shall also be taught in every school in connection with physiology and hygiene simple lessons on the nature, treatment and prevention of tuberculosis. All pupils in the above mentioned schools below the high school and above the third year of school work computing from the beginning of the lowest primary year, shall receive instruction in this subject every year from text books adapted to grade in the hands of pupils for not less than four lessons per week for ten weeks of each school year. In all schools above mentioned, all pupils in the lowest three primary school years shall each year be instructed orally in this subject for not less than three lessons per week for ten weeks of each school year by teachers using text books adapted to grade for such instruction as a guide or standard. Each teacher in the schools in special districts and in the cities organized for school purposes under special law shall conform to and be governed by the provisions of this section.

Approved March 15, 1909.

CHAPTER 205.

[S. B. No. 338—Purcell]

BONDS FOR BRIGHTWOOD SCHOOL DISTRICT.

AN ACT to Amend Section 18 of an Act Entitled "A Bill for an Act Creating Certain Territory Now Within the School Township of Brightwood, Richland County, D. T., as an Independent School District, to be Known as Brightwood Independent School District Number One, Richland County, North Dakota," Passed February 16th, 1885.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section eighteen of a bill for an act to create certain territory now within the school township of Brightwood, Richland county., D. T., as an independent school district, to be known as Brightwood Independent District Number One, Richland county, North Dakota, passed February 16, 1885, be and the same is hereby amended to read as follows:

§ 18. [MAY ISSUE BONDS.] The board of education of said district are authorized and empowered, and it shall be their duty, whenever the said board shall deem it necessary in order to an efficient organization and establishment of schools in said district, and

when the taxes authorized by this act shall not be sufficient, or shall be deemed by the said board burdensome upon the taxpayers of said district, from time to time to issue bonds of said district, in the denominations of not less than one hundred dollars, payable in not less than ten years after date, and bearing interest at the rate of not to exceed eight per cent per annum, payable annually on the first day of July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated, at not less than par value, and the money realized therefrom deposited with the district treasurer to the credit of the said board of education; and when any bonds shall be so negotiated, it shall be the duty of the said board of education of said district to provide by tax for the payment of the principal and interest of said bonds; provided, however, that at no time shall the aggregate amount of bonds issued under the provisions of this act exceed fifty mills on the dollar of the assessed valuation of the property of said district.

§ 2. EMERGENCY.] Whereas, an emergency exists, therefore this act shall be in force and effect from and after its passage and approval.

Approved March 16, 1909.

CHAPTER 206.

[S. B. No. 342—Simpson]

LEGALIZING ORGANIZATION OF SCHOOL DISTRICTS.

AN ACT to Amend and Re-enact Section 796 of the Revised Codes of the State of North Dakota for the Year 1905, Providing for the Legalizing of the Irregularities in the Organization of School Districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 796 of the revised codes of the state of North Dakota for 1905 is amended and re-enacted to read:

§ 796. LEGALIZING IRREGULARITIES.] All school districts, whether duly and legally organized under the provisions of statute or not, which for six months or more last past have had a de facto organization, are hereby declared to be legally organized and are authorized to exercise all the functions of school districts which have been duly and legally organized as provided by statute, with the boundaries which they may have at the time of the going into effect of this article, and all contracts and obligations of said districts and the acts of the officials thereof are hereby ratified and confirmed so far as to give them the same validity which they would have had if such districts had been legally organized.

§ 2. EMERGENCY.] Whereas, in some of the newly organized counties in the western portion of the state, new school districts

have been organized without petition as required by law and a de facto organization of such districts have voted for the issue of certain bonds which can not be sold unless the organization of said district is legalized; and whereas, there is an urgent need to dispose of said bonds to enable said districts to make the necessary improvements, therefore this act shall take effect on and after its passage and approval.

Approved March 16, 1909.

SCHOOL LANDS

CHAPTER 207.

[S. B. No. 155—Crane]

SCHOOL LAND COLLECTIONS.

AN ACT to Amend Section 192 of the Revised Codes of the State of North Dakota of 1905, Relating to the Collection by County Treasurers of Moneys Due on School Lands Held Under Contract or Lease From the State, and Providing the Manner of Reporting Such Collections to the State Auditor and the Commissioner of University and School Lands, and Prescribing the Duties of the County Treasurers, State Auditor and Land Commissioner in Connection Therewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 192 of the revised codes of the state of North Dakota of 1905, is amended and re-enacted to read as follows:

§ 192. COLLECTIONS, HOW MADE. DUTIES OF COUNTY TREASURER.] The purchasers of any land mentioned in this article and the lessees of any such lands, or their executors, administrators or assigns, shall pay to the county treasurer of the county in which such land lies, any and all amounts that may become due from time to time upon such contracts or leases for principal, interest, penalties or rent, and for the amounts so paid the county treasurer shall give to such person a duplicate receipt specifying the amount paid, date of payment, the number of the contract or lease and the description of the land for which the payment is made, name of the person making such payment, nature of the payment, whether for interest, principal, penalty or rent and for what year, and a separate receipt shall be given for each contract or lease, and a separate receipt for each year's interest, and principal and interest shall not be included in the same receipt. All moneys received by each county treasurer under the provisions of this article shall at all times be held by him subject to the order and direction of the state treasurer and the board of university and school lands, and on the first day of each month or within fifteen days thereafter, the county treasurer of each county shall make report to the commissioner of university and school lands of all moneys so collected by him during

the next preceding calendar month, which report shall be in such form and on such blanks as may be prescribed and furnished by the commissioner, and a separate report shall be made for principal, interest, and rent, and such report shall embrace a list of all receipts for the month, briefly described, amount of each receipt, and the total amount collected for the month from each source. Such reports shall be duly certified by the county treasurer as correct and shall be by him transmitted forthwith to the commissioner of university and school lands, together with a triplicate of each receipt shown on each report. The county treasurer shall also and at the same time that he makes his report to the land commissioner, make a similar report to the state auditor, of the total amount collected from each of said sources for the month, which shall correspond with the amount reported to the land commissioner as herein provided, from principal, interest, rent and other sources. As soon as possible after he has received the reports from the several county treasurers, as provided in section one of this act, it shall be the duty of the commissioner of university and school lands to check up and verify said reports from the records of his office and to apportion the several amounts to the funds to which the same are applicable, which apportionment he shall certify to the state auditor, who shall proceed to make drafts on the respective county treasurers in the same manner as drafts are made for state taxes, and to the credit of the proper funds as certified to him by the land commissioner.

§ 3. EMERGENCY.] Whereas, an emergency now exists in that there is no provision under the present law requiring county treasurers to make prompt report of school land moneys collected by them, this act shall be in force and take effect upon its passage and approval.

Approved March 5, 1909.

CHAPTER 208.

[H. B. No. 125—Lucke]

SCHOOL LAND CONTRACTS.

AN ACT Giving Holders of Contracts for the Purchase of State Land the Right to Bring Actions in the Courts in Certain Cases With Reference Thereto, and Providing for the Protection of the Interest of the State in Such Property When Taken by Railways for Right of Way or Other Purposes, and Providing for the Release of the Claim of the State Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HOLDER OF CONTRACT FOR PURCHASE OF LAND FROM STATE MAY SUE.] Any person who shall hold any contract from the state

through the board of university and school lands, or otherwise, for the purchase of any real property within the state, may maintain any action for injuries done the same; also an action to recover possession thereof in the same manner as though he possessed the fee simple title to such lands; provided, however, that in any action or proceeding by or against a railway company with reference to right of way or otherwise, the court shall, in any judgment which it may enter, protect the interest of the state in and to such real property, to the extent that the value of such lands taken, at the price agreed to be paid per acre to the state therefor, shall be directed to be paid to the proper officials of the state; and upon such payment any claim of the state or any of its boards to such part of said property as shall be taken by the railway company shall be at an end.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is in this state at this time no law giving the holder of school lands the right to bring actions against railway companies for right of way taken without the consent of the state; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1909.

SEEDS

CHAPTER 209.

[S. B. No. 119—Cashel]

PURE SEED LAW.

AN ACT to Regulate the Selling, Offering or Exposure of Seeds for Sale, and Providing Penalties for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SEEDS, HOW LABELED OR BRANDED.] Each and every package or lot of seeds, excepting only garden seeds in a packet or a package of one pound or less, whether in package or in bulk, which is sold, offered or exposed for sale by any person, firm or corporation in the state of North Dakota, shall be plainly, legibly and indelibly labeled in English upon the exterior of the container with a written or printed label. Such label shall show:

First: The commonly accepted name of the kind and variety of seed.

Second: The full name and address of the person or persons, firm or corporation selling, offering or exposing the seeds for sale.

§ 2. MIXED SEEDS, HOW SOLD.] In case of sale, offering or exposure for sale of mixed seeds, the packages or containers shall be plainly labeled upon the exterior of the container with the correct common names of the kinds or varieties of seeds composing the mixture.

§ 3. THE SALE OF AGRICULTURAL SEEDS CONTAINING SEEDS OF NOXIOUS WEEDS WHICH ARE FORBIDDEN OR UNLAWFUL.] No person, firm or corporation shall sell, offer or expose for sale or for distribution in the state any agricultural or garden seeds, excepting only garden seeds in a packet or package of one pound or less, which contain any of the seeds of couch or quack-grass, Canada thistle, sow thistle, or dodder. And the sale of agricultural or garden seeds containing more than a reasonable trace of the seeds of greater ragweed, corn flower, marsh elder, Russian pigweed, dandelion, chickory, Russian thistle, plantain, buck plantain, bracted plantain, white cockel, night-flowering catchfly, pink cockle, corn cockle, cow cockle, curled dock, sorrel, sheep-sorrel, purslane, bindweed, wild buckwheat, wild onion, wild oats, pigeon grass, holy grass, cress, mustard, tumbling mustard, hare's-ear mustard, pennycress, pepper grass, shepherd's purse, false flax, bird's-foot trefoil, yellow trefoil, bur clover, sweet clover, ergot, or of the seeds of any other noxious weeds is unlawful.

§ 4. MISLABELING OR MISBRANDING SEEDS.] It shall be unlawful for any person, either for himself or while acting as agent or servant of any other person, firm or corporation, to sell, offer or expose for sale, or to deliver within the state of North Dakota any seeds which are misbranded within the meaning of this act. Seed or seeds shall be deemed to be misbranded if the contents of any sack or lot of seeds, whether in package or in bulk containers, is not labeled in accordance with the requirements of sections one, two and six of this act, or if such seed or seeds be falsely labeled in any respect.

§ 5. PENALTY FOR VIOLATION OF ACT.] Whoever sells, offers or exposes for sale or for distribution in the state any seeds without complying with the requirements of sections one and two of this act, or in violation of sections three and six of this act, shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than ten dollars and costs, nor more than one hundred dollars and the costs of the prosecution for the first offense, and not less than one hundred dollars and costs nor more than five hundred dollars and costs of prosecution for the second or any subsequent offense.

§ 6. SALE OF SEEDS FOR MANUFACTURE, FOOD OR FORAGE. UNCLEANED SEED AND SEEDS IN TRANSIT.] The provisions of this act shall not apply to any person, firm or corporation growing or selling or exposing for sale cereals or other seeds for manufacturing purposes, for food or forage; provided, that the provisions of this act shall not apply to the sale or exposure for sale of uncleaned seed,

provided each package, lot or bulk of such uncleaned seed sold, exposed or offered for sale be plainly labeled with the words, "Uncleaned Seed"; and provided, further, that in case of large quantities of such unclean seeds stored in an elevator, granary or warehouse, they shall be labeled the bins or subdivisions, "Uncleaned Seeds," and no such uncleaned seed shall be sold or delivered within the state for sowing purposes without the consent of the purchaser. This act shall not apply to seeds or grains in transit.

§ 7. THE NORTH DAKOTA AGRICULTURAL COLLEGE EXPERIMENT STATION TO INSPECT, ANALYZE AND TEST SEEDS.] The North Dakota agricultural college experiment station at Fargo shall inspect, examine and make analyses of or test seeds sold, offered or exposed for sale in the state at such time and places and to such extent as it may determine. The director of said experiment station is hereby authorized to appoint a state seed commissioner and such other agents as he may deem necessary to carry out the provisions of this act, and said commissioner or agents shall have free access at all reasonable hours upon and into any premises or structures to make examinations of any seeds, whether such seeds are upon the premises of the owner of such seeds, or on other premises, or in the possession of any warehouse, elevator or railway company; and upon tendering payment thereof at the current value, may take from any person, firm or corporation any sample or samples of such seeds. The salary of said commissioner and of other agents shall be fixed and paid by the trustees of said experiment station.

§ 8. CITIZENS MAY SEND SAMPLES OF SEED OR SEEDS FOR ANALYSIS OR TEST.] Any citizen of the state of North Dakota may, in accordance with regulations prescribed by the state seed commissioner, prepaying the transportation charges, send a sample or samples of seed to said experiment station for examination, analysis or test, and such sample or samples shall be examined, analyzed or tested and reported upon free of charge.

§ 9. CERTIFICATES AS EVIDENCE.] The certificate of the botanist of the North Dakota agricultural college experiment station at Fargo, giving the results of any examinations, analysis or test of any seed sample made under the authority of said experiment station, shall be presumptive evidence of the facts therein stated.

§ 10. FACTS, HOW TRANSMITTED.] When said experiment station shall find by its examinations, analyses or tests that any person, firm or corporation has violated any of the provisons of this act, the state seed commissioner may transmit the facts so found to the attorney general or to the state's attorney of the county in which the offense was committed or the misbranded seeds were found.

§ 11. DUTY OF ATTORNEY GENERAL AND STATE'S ATTORNEY.] It shall be the duty of the attorney general and the state's attorney to prosecute all persons violating any of the provisons of this act when the evidence thereof has been presented by the state seed commissioner.

§ 12. STATION TO MAKE REPORT.] The North Dakota agricultural college experiment station, through the state seed commissioner, shall make an annual report to the governor upon the work done under this act, which report shall show the results of the inspection, examinations, analyses or tests made together with the date or dates of said inspection, examinations, analyses or tests, and may include the names of persons, firms or corporations having seeds under such inspection, examination, analysis or test. The said experiment station may also publish bulletins or press reports setting forth results of inspection, examinations, analyses or tests conducted under the provisions of this act, which bulletins or press reports may include the names of the persons, firms or corporations having seeds under such inspection, examination, analysis or test.

§ 13. APPROPRIATION.] There is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of two thousand five hundred dollars, to be paid to the treasurer of the North Dakota agricultural college experiment station at Fargo, and the same shall be expended for the equipment of a seed testing laboratory and in carrying out the provisions of this act. Said payment shall be made in four quarterly installments on the first days of July, October, January and April, and the state auditor is hereby authorized and directed to draw his orders for such payments.

Approved March 5, 1909.

SEED GRAIN

CHAPTER 210.

[H. B. No. 12—Kinney, of McLean]

BONDS FOR SEED GRAIN.

AN ACT Authorizing Counties to Issue Bonds or Warrants to Procure Seed Grain for Needy Farmers Resident Therein.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BONDS AUTHORIZED. PETITION FOR. TIME TO RUN.] In any county of the state where the crops for any preceding year have been a total or partial failure by reason of drouth, hail or other cause, it shall be lawful for the board of county commissioners of such county to issue the bonds of the county under and pursuant to the provisions of this act, and with the proceeds derived from the sale thereof, to purchase seed wheat for the inhabitants thereof who are in need of seed grain and are unable to procure the same, when-

ever said board shall be petitioned in writing so to do by not less than one hundred freeholders resident in the county; and said board at a meeting called as hereinafter provided to consider said petition, shall by a majority vote determine that the prayer of the petitioners should be granted; provided, that all such petitions shall be filed with the county auditor, or county clerk, on or before the fifteenth day of April; and thereupon it shall be the duty of said officer to forthwith call a meeting of the board of county commissioners of his county to consider said petitions; and provided, further, that the total amounts of bonds issued by any county under the provisions of this act shall not, with the then existing indebtedness of the county, exceed the limit of indebtedness fixed by the constitution in such case; that said bonds shall be in denominations of five hundred dollars; shall bear a rate of interest not exceeding seven per cent per annum, payable semi-annually at such place and times as shall be determined by the board, and that all bonds issued under the provisions of this act shall become due and payable in not less than two nor more than five years from the date thereof, the date of maturity to be fixed by the county board at the time of the issuance thereof, with the above limitation.

§ 2. BONDS, HOW EXECUTED.] Such bonds shall be signed by the chairman of the board of county commissioners and be attested by the county auditor, or county clerk, as the case may be, who shall affix the seal of the county thereto and shall have indorsed thereon a certificate signed by the county auditor or county clerk, stating that said bonds are issued pursuant to law and are within the debt limit.

§ 3. BONDS, HOW SOLD.] It shall be the duty of said board to receive sealed proposals for the purchase of said bonds after giving notice for ten days in three newspapers of general daily circulation, published as follows: One in the city of St. Paul, in the state of Minnesota; one in the city of Bismarck, in the state of North Dakota; and one in the county where the bonds are to be issued, if there be one published in such county; if not, then publication may be made in a weekly paper published in said county, if there be one so published, and said bonds shall be sold to the highest bidder for cash; provided, the same shall not be sold for less than their par value; and, provided, further, that the said county may reject all bids and postpone the sale of said bonds for a time not exceeding fifteen days.

§ 4. PROCEEDS PAID COUNTY TREASURER.] The proceeds arising from the sale of said bonds shall be paid by the purchaser thereof to the county treasurer of the county, or to his authorized agent, at the time of the delivery thereof, and such proceeds shall be paid out only on the order of the board of county commissioners.

§ 5. TREASURER GIVES ADDITIONAL BOND.] It shall be the duty of said board to require the county treasurer to give an additional

bond with sureties to be approved by the board, in a sum to be determined by said board, before the proceeds of said bonds are paid into the treasury.

§ 6. TAX LEVIED FOR SINKING FUND. BONDS REGISTERED.] For the purpose of securing prompt payment of the principal and interest of said bonds, there shall be levied by the board of county commissioners at the time and in the manner other taxes are levied, such sums as shall be sufficient to pay such interest, and in addition thereto a sinking fund tax shall be annually levied sufficient to pay and retire said bonds at their maturity, and it shall be the duty of the county treasurer to pay promptly the interest upon said bonds as the same shall fall due. No tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose; provided, however, that the board of county commissioners may deposit any part or portion of the sinking fund herein provided for, in any bank furnishing satisfactory security to the state of North Dakota, which shall furnish to the county a bond of indemnity to be approved by the board, and receive interest on the same, which shall be credited to the sinking fund. It shall be the duty of the treasurer when said bond or any coupons attached thereto are paid, to cancel the same by writing upon the face thereof the word "paid," and the date of payment. Before the bonds are delivered to the purchaser the treasurer of the county shall register them in a book to be provided for that purpose, known as the bond register, in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable; provided, that said treasurer shall receive a per centum, at the discretion of the county commissioners, not to exceed one per cent, for the receiving and disbursing of the amount received from the sale of said bonds, said per centum to be covered into the treasury as a part of the salary fund. The board of county commissioners may issue warrants instead of bonds, if in their judgment the best interests of the county are thereby served; provided, that such warrants shall not be issued in any amount to exceed three thousand dollars.

§ 7. PROCEEDS USED EXCLUSIVELY TO PURCHASE SEED GRAIN.] The fund arising from the sale of said bonds shall be applied exclusively by the said board for the purchase of seed grain for residents of the county who are unable to procure the same; provided, that not more than one hundred and fifty bushels of wheat or its equivalent in other grain shall be furnished to any one person; provided, further, that in any county in which it is necessary to procure seed grain under the provisions of this act and the parties taking advantage of the same are unable to obtain feed for their stock for the putting in of said seed grain, the county commissioners may, in their discretion, purchase and deliver to such parties who are unable to procure in any other way, such amount of feed as will in their judgment enable said parties to put in their seed; such feed

to be furnished at actual cost, the amount to be paid for such feed to become a part of the seed lien on the crop raised from the seed furnished to such party under the provisions of this act.

§ 8. COMMISSIONERS MAY ISSUE WARRANTS FOR PURCHASE.] In providing for the purchase of seed grain the commissioners may in lieu of issuing bonds, order warrants drawn upon the general fund of the county to pay for the seed grain purchased under the general provisions of this act.

§ 9. APPLICATIONS FOR AID, HOW MADE.] All persons entitled to, and wishing to avail themselves of the benefit of this act, shall file with the county auditor, or county clerk, of the county where said applicant resides, on or before the first day of March, an application duly sworn to before said county auditor, or county clerk, or some other officer authorized to administer oaths. Said application shall contain a true statement of the number of acres the applicant has plowed, or prepared for seeding; how many acres the applicant intends to have plowed or prepared for seeding; how many bushels and what kind of grain he will require to seed the ground so prepared as aforesaid; how many bushels of grain the applicant harvested in the preceding year; that the applicant has not procured and is not able to procure the necessary seed grain for the current year: that he desires the same for seed and no other purpose, and that he will not sell or dispose of the same or any part thereof, but will use the same and the whole thereof in seeding the land so prepared or to be prepared for crop. Said application shall also contain a true and full description of all the real and personal property owned by the applicant, and the incumbrances thereon; and a true description by government subdivisions of the land upon which the applicant intends to sow said seed grain. All applications filed under the provisions of this act shall be consecutively numbered and shall be open to public inspection, and no application shall be considered by the board of county commissioners except such as have been made and filed in the manner prescribed in this section; provided, that the board of commissioners may in their discretion consider any application although made after the time so specified.

§ 10. ADJUSTMENT OF APPLICATION, COUNTY COMMISSIONERS MAKE.] The board of county commissioners of each county issuing bonds under the provisions of this act are hereby appointed and constituted a board of examination and adjustment of the applications for seed grain filed under the preceding section, and it shall be the duty of said board to meet at the county auditor or clerk's office on the first Tuesday in March, or as soon thereafter as possible, to examine and consider separately each application filed under the provisions of this act, and to determine who are entitled to the benefits thereof, and the amount to which each applicant is entitled, and said board shall on or before the tenth day of March, deliver and file with the county auditor, or county clerk, its adjustment of the

said applications, which shall be signed by the chairman of the board.

§ 11. CONTRACT FOR RE-PAYMENT. DELINQUENT PAYMENTS EXTENDED ON TAX LISTS.] The county auditor or county clerk of each county shall as soon as the county commissioners shall have performed the duty prescribed in the preceding section, issue to each applicant demanding it, an order for the number of bushels of each kind of seed grain which has been allowed to said applicant, unless otherwise directed by the board or the chairman thereof; provided, however, that said order shall not be delivered until said applicant shall have signed a contract in duplicate, attested by the county auditor or county clerk, to the effect that said applicant for and in consideration of.....bushels of seed grain received from.....county, promises to pay to said county dollars, the amount of the cost of said seed grain; that said sum shall be taxable against all the real and personal property of said applicant; that such tax shall be levied by the county auditor, or county clerk, of his county and collected as other taxes are collected under the laws of this state; that the amount of such indebtedness shall become due and payable on the first day of October in the year in which said seed grain is furnished, together with interest on such amount from the first day of April of that year, at the rate of seven per cent per annum, and if said indebtedness be not paid on or before the twentieth day of October of that year, it shall then be the duty of the county auditor, or county clerk, of the said county, to cause the amount of said indebtedness to be entered upon the tax lists of said county for that year, as a tax on the land on which said seed wheat was sown, and upon any other land owned by the applicant, to be collected as other taxes are, and the sum so entered and levied shall be a lien upon the real estate owned by said person until said indebtedness is fully paid, when it shall be the duty of the proper officer to cancel the same.

§ 12. CONTRACT MADE FIRST LIEN.] Upon the filing of the contracts provided for in section ten, the county shall acquire a just and valid lien upon the crops of grain raised each year by the person receiving seed grain to the amount of the sum then due to the county upon said contract, as against all creditors, purchasers or mortgagees, whether in good faith or otherwise, and the filing of said contract shall be held and considered to be full and sufficient notice to all parties of the existence and extent of said lien, which shall continue in force until the amount covered by said contract is fully paid.

§ 13. CROPS SOLD FOR REPAYMENT OF ADVANCES.] Each and every person who has received seed grain under the provisions of this act, shall, as soon as his crops for the year wherein payment is to be made are harvested and threshed, market a sufficient amount of grain to pay the amount then due on his contract and pay the same over to the treasurer of his county.

§ 14. PENALTY FOR MISUSE OF SEED FURNISHED.] Anv person or persons, who shall, contrary to the provisions of this act, sell, transfer, take or carry awav. or in any manner dispose of the seed grain, or any part thereof, furnished bv the county under this act, or shall use or dispose of said seed grain, or any part thereof, for any other purpose than that of planting or sowing the same as stated in his application, or shall sell, transfer, take or carry away, or in any manner dispose of the crop, or any part thereof, produced from the sowing or planting of said seed grain, shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than ten dollars, nor more than one hundred dollars, or may be imprisoned in the county jail for a term of not less than ninety days, and shall pay all the costs of prosecution, and whoever under any of the provisions herein shall be found guilty of false swearing shall be deemed to have committed perjury and shall upon conviction suffer the pains and penalities of that crime. Upon the filing of said application in the office of the register of deeds, and the sowing of the seed obtained thereunder, the title and right of possession to the growing crop and to the grain produced from said seed shall be in the county which shall have furnished the seed until the debt incurred for said seed shall have been paid, and any seizure thereof or interference therewith, except by the applicant and those in his employ, for the purpose of harvesting, threshing and marketing the same to pay the debt aforesaid, shall be deemed a conversion thereof, and treble damages may be recovered against the person so converting the same by the county furnishing said seed.

§ 15. DUTY OF OFFICERS TO PROSECUTE.] It shall be the duty of the constables and town clerks of the towns, and the county commissioners, sheriffs and state's attorneys of the counties furnishing seed grain under the provisions of this act, having any knowledge of the violation of its provisions, to make complaint thereof to a justice of the peace, and said justice shall thereupon issue a warrant for the arrest of the offender, and proceed to hear and determine the matter, or to bind the offender over to appear before the grand jury, as the case may be.

§ 16. COMMISSIONERS ADVERTISE INTENTION OF DISTRIBUTION.] The county commissioners of every county proposing to distribute seed grain under the provisions of this act shall advertise such intention in such manner and for such length of time prior to the first day of March as is possible for them to do, giving notice that all applications must be filed with the county auditor, or county clerk, by the first day of March; provided, that no distribution of seed grain under the provisions of this act shall take place prior to the tenth day of March. If more seed grain is applied for than can be supplied by the commissioners under the provisions of this act, a pro rata distribution shall be made by them among those who shall have been found entitled to the benefits of this act. The commissioners shall have the right to refuse any application which they

may deem improper to grant, and they may revise their adjustment of applications at any time before final distribution.

§ 17. GRAIN FURNISHED AT COST.] It shall be the duty of the commissioners providing seed grain under the provisions of this act, to purchase the same at the lowest price at which suitable grain can be obtained, and to furnish the same to applicants at the actual cost thereof to the commissioners, with transportation and handling charges added, if any there be, and any person requiring or extorting from any applicant a greater price shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or both, as the court may determine.

§ 18. SINKING FUND.] All money received by the county treasurer in payment of debts incurred under the provisions of this act, shall be paid into, and become a part of the sinking fund herein provided for, and be used exclusively in the purchase or payment of bonds issued hereunder.

§ 19. BONDS MAY BE RETIRED.] Said board may at any time, with the concurrence of the owners thereof, pay and retire any of the bonds issued under the provisions of this act out of the funds provided for that purpose, at not more than the par value thereof and accrued interest.

§ 20. NO TAX LEVIED, WHEN.] In case a sufficient fund has been paid into the county treasury in any one year, as provided in section ten of this act, on or before November first, to meet the interest and sinking fund provided for in this act, then there shall be no tax assessed for such purpose in that year, and in no year shall there be a greater sum assessed than will, together with the balance at that date in the treasury belonging to the seed grain fund, be sufficient to meet said interest and sinking fund promptly for that year.

§ 21. EMERGENCY.] As there are settlers who are unable to procure seed for their farms for the coming spring and an emergency exists, this act shall take effect and be in force immediately after its passage and approval.

Approved March 1, 1909.

CHAPTER 211.

[S. B. No. 118—Gunderson]

PURCHASE OF GRAIN.

AN ACT Making It Unlawful for Any Person, Firm, Association, Co-Partnership or Corporation Doing Business in the State to Purchase Grains at a Different Weight for the Bushel Than Is Fixed by Law, or to Take or Accept any Dockage on Grains Not Docked at the Terminal Markets of Minnesota and Wisconsin.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. UNLAWFUL TO BUY AT OTHER THAN LEGAL WEIGHT. DOCKAGE.] It shall be unlawful for any person, firm, association, co-partnership or corporation doing business in the state to purchase or receive any wheat, oats, barley, flax or other grains at a different weight for the bushel measure than the number of pounds fixed by the laws of our state, and no dockage shall be taken or received on same, excepting on such grains as the grain inspection boards for the terminal markets of the states of Minnesota and Wisconsin place a dockage.

§ 2. PENALTY.] Any person, firm, association, co-partnership or corporation found guilty of violating the provisions of this act shall be guilty of a misdemeanor and be fined not less than twenty-five nor more than one hundred dollars for each and every offense.

Approved March 11, 1909.

STATE INSTITUTIONS

CHAPTER 212.

[S. B. No. 268—Cashel]

DEPORTATION OF NON-RESIDENT FEEBLE MINDED.

AN ACT Authorizing the Trustees of the Institution for Feeble Minded to Transport, at the Expense of the State, Inmates Whose Parents or Guardian has Removed from the State to the Residence of Such Parent or Guardian Without the State, and Providing an Appropriation Therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INMATE MAY BE DEPORTED, WHEN.] Whenever it shall be found by the board of trustees of the institution for feeble minded

that the parent or guardian of any inmate, if legally chargeable with the support of such inmate, shall have removed from the state and become a resident of another state or country, such board shall have authority to send such inmate, at the expense of the state, to the place where such inmate belongs in every case where the place of residence of his parent or guardian can be ascertained. The superintendent of such institution shall cause such inmate to be conveyed to the place of his parent's or guardian's residence, and shall be entitled to be reimbursed in the amount of the actual expense thereof out of the state treasury upon the presentation of his bill therefor, audited and certified to by the board of trustees.

§ 2. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasurer's hands, not otherwise appropriated, a sum sufficient to carry out the provisions of this act.

§ 3. EMERGENCY.] An emergency exists, in that there are inmates in the institution for the feeble minded, now, coming under the provisions of this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1909.

CHAPTER 213.

[S. B. No. 264—Cashel]

INSTITUTION FOR FEEBLE MINDED.

AN ACT Amending Section 1165 of the Revised Codes of 1905, the Same Being Amended and Embraced in Chapter 237 of the Laws of 1907, Relating to the Inmates of the Institution for the Feeble Minded.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 1165 of the revised codes of 1905, as amended and embraced in chapter 237 of the laws of 1907, be and the same is hereby amended and re-enacted so as to read as follows:

§ 1165. WHO MAY RECEIVE BENEFITS OF SCHOOL.] All feeble minded persons residents of this state, who, in the opinion of the superintendent, are of suitable age and capacity to receive instruction in the institution for the feeble minded, and whose defects prevent them from receiving proper training in the public schools of the state, and all idiotic and epileptic persons residents of this state, may be admitted to and receive the benefits of the institution subject to payment of the sums hereinafter provided and to such rules and regulations as may be made by its board of trustees; provided, however, that any inmate of such institution shall not be removed therefrom, except upon a written request of the parent, parents, guardian or custodian of such inmate, which said request must

receive the approval of the superintendent before such inmate can be removed.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 15, 1909.

CHAPTER 214.

[H. B. No. 374—Traynor]

PENITENTIARY RECORDS.

AN ACT to Provide for the Completing of the Audit and Examination of the Books and Records in the State Penitentiary and Twine Plant and for the Perpetuation of the Record of Such Audit and Examination and for Installing and Completing an Adequate System of Books and Records for Said Institutions, and Making an Appropriation to Provide for the Expense Incurred in Carrying Out the Provisions of This Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOOKS AND RECORDS TO BE INSTALLED.] The governor, the secretary of state and the state auditor be and they are hereby authorized, directed and empowered, to install, or procure installed, a complete and adequate set of books and records for the state penitentiary and twine plant conforming to the needs of the institutions, and to existing laws governing the operation thereof and to transfer or procure to be transferred thereto, a complete and correct account or abstract of the condition of said institutions as will be disclosed upon the completing of the accounting and auditing now in progress.

§ 2. CERTAIN STATE OFFICERS INSTALL SYSTEM.] The governor, the secretary of state and the state auditor are hereby authorized and empowered to assume charge of and complete or procure to be completed such part or portion of the audit or examination of the books and records of said penitentiary and twine plant as may remain undone at the time of the adjournment of the eleventh legislative assembly, and perpetuate the record thereof.

§ 3. EXPENSES PAID.] All expenses connected with the completion of said audit and examination and perpetuating of the record thereof, and with installing and completing such system of books and records of the said state penitentiary and twine plant, shall be audited and allowed by the state auditing board in the same manner as other expenses of government.

§ 4. APPROPRIATION.] In order to carry out the provisions of this act there is hereby appropriated out of any monies in the state treasury not otherwise appropriated the sum of ten hundred dollars, or so much thereof as may be necessary therefor.

§ 5. EMERGENCY.] Whereas, an emergency exists in that a large portion of the work in connection with the carrying out of the provisions of this act is now under way and cannot be interrupted or delayed without loss to the state, an emergency is declared to exist and this act shall take effect upon its passage and approval.

Approved March 12, 1909.

STATE OFFICERS

CHAPTER 215.

[H. B. No. 294—Wolbert]

STATE EXAMINER AND DEPUTIES.

AN ACT to Amend Section 150 of the Revised Codes of the State of North Dakota of 1905, Relating to the Salary of the State Examiner and to the Appointment, Salaries and Qualifications of Deputies of the State Examiner.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 150 of the revised codes of the state of North Dakota of 1905 is hereby amended to read as follows:

§ 150. SALARY, DEPUTIES AND PENALTY FOR MALFEASANCE.] The only salary of the state examiner for all services rendered in any capacity whatever, shall be three thousand dollars per year, and his actual and necessary expense incurred in the discharge of his official duties, to be audited and paid in the same manner as the salary and expense of the state officers are paid. He is authorized, with the approval of the governor, to appoint deputies, five, who shall receive an annual salary of eighteen hundred dollars, and one who shall receive an annual salary of fifteen hundred dollars and their actual and necessary traveling expenses, to be audited and paid as hereinbefore stated. The deputy state examiners shall be skilled accountants. If said examiner or his deputies, or either of them, shall directly or indirectly receive any compensation or pay for his services, or extra services, or neglect of services, other than is provided in this article, he shall be deemed guilty of felony.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1909.

CHAPTER 216.

[H. B. No. 110—Wolbert]

SALARY OF STATE OFFICERS.

AN ACT Requiring State Officials to Reside at the Capital and to Provide Adequate Compensation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PERSONAL EXPENSES OF THE GOVERNOR.] The governor shall receive the sum of one thousand five hundred dollars per annum for the purpose of defraying his personal expenses, such amount to be payable monthly without the filing of any itemized statement; provided, that the provisions of this section shall not apply to governors hereafter elected.

§ 2. PERSONAL EXPENSES OF OTHER STATE OFFICERS.] The secretary of state, state auditor, state treasurer, attorney general, superintendent of public instruction, commissioner of agriculture and labor, and the commissioner of insurance shall each receive the sum of seven hundred and fifty dollars per annum for the purpose of defraying the personal expenses of such officers, such amount to be payable monthly, without the filing of any itemized statement; provided, that none of the officers named in paragraph one, of section two, shall receive such expense money unless they reside at the capital of the state. The members of the board of railroad commissioners shall receive the sum of four hundred dollars per annum each for the purpose of defraying his personal expenses, such amount to be payable monthly without the filing of any itemized statement.

§ 3. NO FUTURE APPLICATION.] The provisions of sections one and two shall not apply to any of the state officers herein mentioned who may hereafter be elected.

§ 4. SALARY.] The governor shall receive an annual salary of five thousand dollars per annum. The attorney general shall receive an annual salary of three thousand six hundred dollars and he shall reside at the capital of the state. The secretary of state, state auditor, state treasurer, superintendent of public instruction, commissioner of agriculture and labor and commissioner of insurance shall each receive an annual salary of three thousand dollars, and shall reside at the capital of the state. The commissioners of railroads shall receive an annual salary of two thousand dollars per annum.

§ 5. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, a sum of money sufficient to pay the personal expenses contemplated in this act.

§ 6. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 7. EMERGENCY.] Whereas, an emergency exists in that there is no provison of law providing for the payment of the necessary personal expenses of the state officers herein mentioned, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1909.

CHAPTER 217.

[H. B. No. 71—Aasheim]

PUBLISHING STATE TREASURER'S REPORT.

AN ACT to Provide for a Greater Publicity of the Finances of the State.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPORT OF TREASURER.] It shall be the duty of the state treasurer on or before the tenth day of January, April, July and October of each year to make a report in writing, under oath to the governor showing the total amount of all moneys in his hands or under his control on the last day of the preceding month, and showing separately the amount or portion thereof on deposit in each of the several state depositaries; also the amount of the bond of each such depositary and the amount on hand in the vaults of the state treasurer. Under the latter head he must specify the amount on hand in currency, and separately and by items, the amount in checks, drafts, certificates or other cash items. Such report must be verified by the state auditor, and the state treasurer must cause the same to be published once in a daily paper, published at the seat of government, on or before the fifteenth day of each of said months, and must forthwith mail a copy thereof to each qualified state depositary. Proof of the publishing and mailing of such report must be made by affidavit of some person having personal knowledge thereof, and such report, with such proof then filed in the office of the governor.

§ 2. EXPENSE PROVIDED FOR.] The expense of such publication shall not exceed the sum of thirty cents per square of twelve lines of solid brevier type or its equivalent, and such expense shall be audited and paid out of the general fund.

§ 3. PENALTY FOR NON-COMPLIANCE.] Failure or refusal on the part of the state treasurer to comply with the provisions of this act, shall constitute cause for his removal from office.

§ 4. EMERGENCY.] Whereas, grave questions have arisen as to the equitable distribution of state funds in the various state depositaries, and the exact conditions should be made public with the least possible delay, therefore this act shall take effect immediately upon its passage and approval.

Approved February 15, 1909.

CHAPTER 218.

[H. B. No. 96—Thompson]

STATE ENGINEER.

AN ACT Authorizing the State Engineer, on the Approval of the Governor, to Receive and Receipt to the Secretary of State for all the Field Notes, Maps, Records and Other Papers Appertaining to Land Titles Within the State of North Dakota, and for Such Other Property and Records as the Government May Direct to be Turned Over to the State When All of the Public Surveys in the State of North Dakota Shall Have Been Completed.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CUSTODIAN GOVERNMENT PLATS.] The state engineer, with the approval of the governor, is hereby authorized to receive and receipt to the secretary of state for all field notes, maps, records and other papers appertaining to land titles within the state of North Dakota, and for such other property and records as were turned over to the secretary of state by the government on July 1, 1908, and the said state engineer shall be custodian of all the above named property and for all other plats, field notes and records as may hereafter be turned over to the state by the government.

§ 2. CARE AND CUSTODY.] Suitable rooms shall be provided in the capitol building containing vaults for fireproof protection and the safekeeping of such records, and free access to any such field notes, maps, records, and other papers for the purpose of taking extracts therefrom or making copies thereof without charge of any kind, shall be allowed to all officers or employes of the United States during office hours.

§ 3. FURNISHES COPIES.] It shall be the duty of the state engineer to furnish on application exemplified copies of all maps, field notes and records upon the payment to him of such fees for the copying and certifying such field notes, maps and records, as may be prescribed by the governor, secretary of state and attorney general. All fees paid to the state engineer for copies of plats, field notes and records shall be paid into the state treasury and placed to the credit of the fund for the promotion of irrigation.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists, this act shall take effect on and after the date of its passage and approval.

Approved March 15, 1909.

CHAPTER 219.

[H. B. No. 229—Traynor]

ASSISTANT ATTORNEYS GENERAL.

AN ACT to Amend Section 126 of the Revised Codes of 1905, Providing for the Appointment of Assistant Attorneys General, and Fixing their Salary, and Appropriating Money to Pay the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 126 of the revised codes of North Dakota for 1905 is hereby amended and re-enacted to read as follows:

§ 126. ASSISTANT ATTORNEYS GENERAL, HOW APPOINTED.] The attorney general may appoint two assistant attorneys general whose appointment shall be in writing and filed in the office of the secretary of state. Such assistant attorneys general shall have the same powers and authority as the attorney general. They shall before entering on the duties of their office take and subscribe upon their appointment the official oath prescribed by law.

§ 2. SALARY OF ASSISTANT ATTORNEYS GENERAL.] The annual salary of the assistant attorneys general shall be two thousand five hundred dollars each, payable monthly on the warrant of the state treasurer.

§ 3. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of five thousand dollars per annum to pay the salaries of such assistant attorneys general.

Approved March 16, 1909.

TITLES

CHAPTER 220.

[H. B. No. 65—White]

CHAIN OF TITLE.

AN ACT Relating to Evidence Regarding the Chain of Title to Real Estate.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. VARIATION IN SPELLING, ETC. AFFIDAVIT TO CURE.] Wherever, in the record of title to real estate, in the office of the register

of deeds of any county of this state, there appears in the chain of title any variation in the spelling of the names of any persons appearing in such chain of title, or any instruments affecting the title to real estate, or where any grantor, mortgagor, vendor, lessor or other maker of any such instruments signs without the joinder of the spouse, any person may make an affidavit setting forth therein that he is personally cognizant of the facts stated by him in such affidavit, and may state the identity of any person appearing in such chain of title under names varying in the spelling thereof, or in the use of initials, and such affidavit may also state whether or not, at the time of the transfer or incumbrance, to which the affidavit relates, that the land described therein was or was not the homestead of the grantors, mortgagors or vendors or the persons whose title is divested or encumbered, wholly or in part, or in any way affected by such transfer or conveyance.

§ 2. AFFIDAVIT ENTITLED TO RECORD.] The affidavit provided for in section one of this act, duly verified according to law, and containing a description of the land to which it relates, may be recorded in the office of the register of deeds of any county in this state, in the proper book of miscellaneous records, in such office.

Approved March 16, 1909.

TOWNSHIPS

CHAPTER 221

[S. B. No. 199—McLean]

DIVISION OF CIVIL TOWNSHIPS.

AN ACT to Amend Section 3054 of the Revised Codes of North Dakota for 1905, Relating to the Division of Organized Townships.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3054 of the revised codes of North Dakota for the year 1905 is hereby amended so as to read as follows:

§ 3054. CIVIL TOWNSHIPS, HOW FORMED.] Any congressional township or fraction thereof, bordering on a lake or bordering on a river, containing more than eighteen sections of land, which has residing therein one hundred or more inhabitants, and forming a part of an organized civil township, may be set apart and organized as a separate civil township in the manner herein provided, and when duly organized shall have the same powers and privileges and be subject to the same liabilities and restrictions as other civil town-

ships, except as herein otherwise provided; but no civil township shall be so formed under the provisions of this article, as to leave residing in the township from which it is separated less than one hundred inhabitants; provided, such separation shall be made only upon congressional township lines.

Approved March 15, 1909.

CHAPTER 222.

[H. B. No. 182—Welford]

CLERKS OF CIVIL TOWNSHIPS.

AN ACT to Amend Section 3141 of the Revised Codes of 1905, Relating to Bond to be Given by Clerks of Civil Townships.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3141 of the revised codes of 1905 is hereby amended to read as follows:

§ 3141. CLERK TO GIVE BOND AND TAKE OATH.] Each person elected or appointed to the office of township clerk shall, before entering upon the duties of his office and within the time prescribed by law for filing his oath of office, execute a bond with two or more sureties to be approved by the chairman of the township board of supervisors, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Such bond so approved shall be filed in the office of the county auditor for the benefit of any person aggrieved by the acts or omissions of such clerk, and any person so aggrieved or the township may maintain an action on such bond against said clerk and his sureties.

Approved March 11, 1909.

CHAPTER 223.

[S. B. No. 200—Plain]

POWERS OF TOWNSHIP ELECTORS.

AN ACT to Amend Section 1 of Chapter 255 of the Laws of1907, Entitled, "An Act to Amend Sections 3063 and 3133 of the Revised Codes of the State of North Dakota, of 1905 Relating to the Powers of Electors and Supervisors in Organized Townships."

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section one of chapter 255, of the session laws of 1907, being section 3063 of the revised codes of 1905 be, and the same is hereby amended to read as follows:

§ 3063. POWERS OF ELECTORS.] The electors of each township have power at the annual township meeting:

1. To determine the number of poundmasters and the location of pounds.

2. To select such township officers as are required to be chosen.

3. To direct the institution or defense of actions in all controversies where such township is interested.

4. To direct such sums to be raised in such township for the prosecuting or defending such actions as they may deem necessary.

5. To make all rules and regulations for impounding of animals.

6. To impose such penalties on persons offending against any rule or regulation established by the township as they think proper, not exceeding ten dollars for each offense, except as herein otherwise provided.

7. To apply such penalties when collected in such manner as they deem most conducive to the interests of the township.

8. To ratify or reject recommendations offered by the township board of supervisors for the expenditure of funds for the purpose of purchasing building sites and purchase, location, erection or removal of any building or erection for township purposes; provided, that no such recommendation shall be adopted otherwise than by a two-thirds vote of the electors present and voting at any annual township meeting.

9. To authorize and empower the board of township supervisors to purchase liquids, compounds or other ingredients to cause the destruction of noxious weeds, and to authorize the purchase of sprinklers to be used in spraying said liquids or compounds for the destruction of noxious weeds; but that no township shall purchase more than two such sprinklers in any one year.

§ 2. AMENDMENT.] Section 3133 of the revised codes of 1905 is amended to read as follows:

§ 3133. POWERS OF SUPERVISORS.] The supervisors shall have charge of such affairs of the township as are not by law committed to other township officers, and they shall have power to draw orders on the township treasury for the disbursement of such funds as may be necessary for the purpose of defraying the incidental expenses of the township and for all moneys raised by the township to be disbursed for any other purpose and when it shall seem advisable by said board of supervisors they may recommend to the electors of their township the expenditure of a stated amount for the purpose of purchasing building sites and purchase, erection, location or removal of any building, or erection for a town hall, library building or other erection for use and benefit of said township.

§ 3. EMERGENCY.] Whereas, an emergency is hereby declared to exist, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1909.

CHAPTER 224.

[S. B. No. 231—Trimble]

TOWNSHIP BONDS.

AN ACT to Amend Section 3198, Article 24, Chapter 33, of the Political Code (Revised Codes of 1905) of the State of North Dakota, Relating to Bonds of Civil Townships and as to How and When Issued.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3198, of article 24, of chapter 33, of the political code (revised codes of 1905), is amended so as to read as follows:

§ 3198. BONDS OF TOWNSHIPS ISSUED, HOW AND WHEN.] The board of supervisors of the organized townships of this state, or those that may hereafter be organized, are authorized and empowered to issue the bonds or orders of their respective townships, with coupons attached, and in such amounts and at such periods as they may be directed by two-thirds of the legal voters present and voting at any legally called township meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding twenty years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed seven per cent per annum, payable annually, which bonds or orders and coupons shall be signed by the chairman of the board of supervisors and countersigned by the clerk of the township; provided, that nothing herein contained shall be construed to authorize the issuing of such bonds or orders unless the same shall have first been voted for by ballot by two-thirds of all the legal voters present and voting at any annual or special township meeting called for that purpose, notices of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in the township for not less than ten days previous to the time of calling the same.

Approved March 15, 1909.

CHAPTER 225.

[H. B. No. 181—Welford]

TOWNSHIP BOARD OF AUDITORS.

AN ACT to Amend Section 3153 and the Repealing of Section 3154 of the Revised Codes of 1905, Relating to Meetings of Township Board of Auditors.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3153 of the revised codes of 1905 is hereby amended to read as follows:

§ 3153. MEETINGS OF BOARD. AUDITING ACCOUNTS OF TREASURER.] The board shall meet on the Tuesday next preceding the annual township meeting and on the last Tuesday of October in each year, and at such other times as it deems necessary and expedient for the purpose of auditing and settling all charges against the township, and it shall state on each account the amount allowed by it; but no allowance shall be made for any account which does not specifically state each item of the same and the nature thereof. At the regular meeting on the Tuesday next preceding the annual town meeting (being the second Tuesday of March) in each year, the board shall examine and audit the accounts of the township treasurer for all moneys received and disbursed by him as such officer; and at said meeting shall audit the accounts of all other township officers who are authorized by law to receive or disburse any money of the township by virtue of their offices.

§ 2. REPEAL.] Section 3154 of the revised codes of 1905 is hereby repealed.

Approved March 16, 1909.

TWINE PLANT

CHAPTER 226.

[S. B. No. 141—Neal]

FISCAL YEAR AND SINKING FUND.

AN ACT to Amend Section 10387 of the Code of Criminal Procedure of the Revised Codes of 1905, Relating to the Fiscal Year and Sinking Fund of the Twine Plant.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 10387 of the code of criminal procedure of the revised codes of 1905 is hereby amended so as to read as follows:

§ 10387. FISCAL YEAR AND SINKING FUND OF THE TWINE PLANT.] The fiscal year for all purposes connected with the said twine plant and cordage factory shall begin and end the same as the calendar year, and the state board of audit shall at the end of each fiscal year make, or cause to be made, an inventory and appraisement in triplicate, of all moneys, credits, materials, manufactured product and all other articles which are properly a credit to the "operating fund" above referred to, one copy of which shall be filed in the office of the governor, one copy in the office of the state treasurer, and the other in the office of the warden of the penitentiary, and whenever such inventory and appraisement shall show an excess over the sum of three hundred ten thousand dollars the state treasurer shall take from the said "operating fund" an amount equal to such excess and place the same in a sinking fund, which is hereby created for the payment of such bonds at maturity and the interest on the same as it shall become due.

Approved March 12, 1909.

excess of twenty-five dollars shall be placed in a general inmates' benefit fund, and one-half shall be placed to the inmate's personal account. The warden of the state penitentiary shall keep a correct account of the inmates' benefit fund, showing receipts and expenditures.

§ 3. RULES AND REGULATIONS.] The board of trustees of the state penitentiary shall have full power to formulate rules and regulations for the payment of the wages to the inmates, and to determine what portion of the maximum wages shall be paid; provided, that no wages shall be paid except for labor performed by the inmate.

§ 4. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1909.

VILLAGES

CHAPTER 229.

[H. B. No. 98—Nelson, of Steele]

VILLAGE TREASURER.

AN ACT to Amend Section 2884, Article 7, Chapter 31, of the Revised Codes of the State of North Dakota for 1905, Relating to Powers and Duties of Village Officers.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2884 of the revised codes of North Dakota, is amended so as to read as follows:

§ 2884. DUTIES OF VILLAGE TREASURER.] The treasurer of each incorporated village shall so keep his accounts as to show where and from what sources all moneys paid him have been derived, and to whom and when such moneys or any part thereof have been paid. The treasurer shall grant all licenses authorized by this chapter upon the presentation of the receipt of the marshal that said money therefor has been paid to said marshal. His books, accounts and vouchers shall at all times be subject to the examination of the board of trustees, and it is its duty to examine the same at a regular meeting of such board on some day between the first and last Mondays of February in each year, and have a settlement with said treasurer.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11, 1909.

of bills is authorized to be made in the manner provided in this act, therefore, this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1909.

CHAPTER 228.

[S. B. No. 140—Neal]

OPERATION OF TWINE PLANT.

AN ACT Authorizing the Board of Trustees of the North Dakota State Penitentiary to Operate the Twine Plant More Than Ten Hours Per Day; Authorizing the Employment of the Inmates of the North Dakota State Penitentiary During any Part of the Day; Authorizing the Board of Trustees of the North Dakota State Penitentiary to Pay Inmates, Not to Exceed the Sum of Six Cents Per Day for Their Labor, Except That Inmates Working Over Time in the Factory May Be Paid Extra for Over Time; Prescribing Rules to be Observed in the Payment of Wages, and the Keeping of the Accounts; Providing that the Wife, Minor Children, or Other Person Dependent on the Inmate for Support Shall Receive Five-sixths of the Wages; and Otherwise Providing for the Manner in Which the Wages May be Paid; and Providing for a General Inmates' Benefit Fund.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LENGTH OF WORKING DAY. OVERTIME.] The board of trustees of the state penitentiary may operate the twine plant during the entire twenty-four hours of the day, or so much thereof as they may deem wise, and they shall have authority to require the inmates of the penitentiary to work ten hours during the day, or so much thereof as they may direct. The twine plant may be operated more than ten hours per day; provided, that the board of trustees of the state penitentiary may pay all inmates who work more than ten hours per day not to exceed ten cents per hour for all work done in excess of ten hours per day, said sum for said excess work to be credited to his account.

§ 2. COMPENSATION TO INMATES.] The board of trustees of the state penitentiary may at their discretion pay all inmates a compensation for their labor, not to exceed the sum of six cents per day; provided, that the warden of the state penitentiary shall keep an inmates' account with each inmate to whom any money is paid, and that no inmate shall be permitted to use any money credited to his account until there shall be to his credit not less than twenty-five dollars, which sum of twenty-five dollars shall be paid to him when he is released and discharged instead of the five dollar allowance for temporary aid. Whenever an inmate has more than twenty-five dollars earned and to his credit, his wife or minor children, or other person depending on him for support shall be entitled to draw five-sixths of such excess earnings; provided, that if he has no one dependent on him, that one-half of his earnings in

WEEDS

CHAPTER 231.

[S. B. No. 123—Plain]

COMMISSIONERS OF NOXIOUS WEEDS.

AN ACT Declaring Certain Noxious Weeds to be a Public Nuisance and Creating a Commissioner of Noxious Weeds, Providing for the Manner of His Appointment and Prescribing His Powers and Duties, and Providing Penalties for Failure to Perform the Same and Providing Penalties for Failure to Comply with His Notice and Orders.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PUBLIC NUISANCE.] All Canada and sow thistles and quack grass are hereby declared to be and the same are a public nuisance, and the board of township supervisors in organized townships, and the board of county commissioners for unorganized townships are hereby empowered to destroy the same as hereinafter provided.

§ 2. COMMISSIONER APPOINTED.] There shall be appointed by the board of township supervisors in all organized townships, and by the board of county commissioners in all unorganized townships, for each township or election precinct, and by the city council of any city, or by the board of trustees of any town or village, as the case may be, some competent person, to be styled, "Commissioner of Noxious Weeds," who shall take the oath required of township officers, and shall hold his office for the term of one year, and until his successor is appointed and qualified, and who shall receive for his compensation the sum of three dollars a day for each day necessarily spent in the performance of his duty. The board of appointment may, at any time, for good cause, remove the commissioner from office and appoint his successor to serve the remaining portion of his time, and it shall be the duty of said board to strictly enforce all the provisions of this act, and they shall have the same power as the commissioner of noxious weeds in discharging such duty.

§ 3. DUTIES OF COMMISSIONER.] The commissioner of noxious weeds shall diligently examine and investigate into the existence and introduction of Canada and sow thistles and quack grass in his township or precinct, and if any are found growing therein he shall take charge of all such as are growing upon the highways and uncultivated lands, and prevent the same from go-

ing to seed, or otherwise spreading, and he shall carefully investigate and ascertain the best practicable methods for their destruction and he shall persistently apply at proper times such remedy or treatment as he shall deem best calculated to prevent their spread and to eradicate the same, and he shall serve upon all persons, partnerships, firms, corporations and associations owning or controlling any lands where such noxious weeds are growing, written notice to destroy the same within a time specified in said notice.

§ 4. TREATMENT OF THISTLES AND QUACK GRASS ON CULTIVATED LAND. TAKING POSSESSION. APPEAL.] In case said thistles and quack grass are found growing upon cultivated lands, the commissioner shall consult and advise with the owner, agent or occupant thereof as to their treatment, and if the said commissioner shall deem it necessary and expedient for him to fully control the same, he shall agree with the owner, agent or occupant as to the boundaries of the tract so infected which it is expedient for him to control for the purpose of destroying such noxious weeds and he shall mark the same by stakes and thereafter such infected tract, or as much as from time to time remains infected, shall be managed and controlled by the said commissioner for the purpose of destroying said thistles and quack grass, and for so long a time as it may be necessary to complete such work. In case the commissioner and the owner, agent or occupant of said land cannot agree as regards the propriety of the commissioner controlling such tract, or the boundaries of the same, then the commissioner shall proceed to stake out or mark such boundaries as he deems proper, and file a description of such tract and a record of his proceedings with the town clerk in organized townships or county auditor in unorganized townships. The owner, agent or occupant of the land may, if he feels aggrieved, appeal from such decision of the commissioner within five days to the township supervisors or to the county commissioners, as the case may be, by filing written notice of appeal with the township clerk or county auditor, as the case may be, and thereupon such board shall proceed within five days to review the same, and to hear the reason for and against the decision of the commissioner, and a majority of such board of appeal shall decide as to the propriety of taking possession of the tract alleged to be infected, and if they decide to take such possession, shall also determine the boundaries of the same, and shall direct said commissioner to exterminate said thistles and quack grass without unnecessarily depriving the owner of the land of any legitimate use and enjoyment of the same, not interfering in any way with the destruction of such thistles and quack grass, and the owner or occupant of said land shall pay all cost and expense of labor for said extermination, which shall not exceed the sum of one hundred dollars for each one hundred and sixty acres, or fraction thereof, in any one year, without the written consent of the supervisors of said township or county commissioners, as the case may be, and that the sum so expended shall

be a lien upon said tract so infected; and if the owner or occupant shall not pay the same to said commissioner on or before the first Monday of December following, the commissioner shall certify under oath to the county auditor the amount so due on each tract; and it shall be the duty of said commissioner to collect the same in a civil action and cover the same into the general fund of the respective districts.

§ 5. SALARY OF COMMISSIONER.] It shall be the duty of the board of township supervisors or the board of county commissioners as the case may be, to pay out of the general fund the salary of the commissioner of noxious weeds, and all expenses and disbursements incurred under the provisions of this act, upon verified vouchers duly audited and approved.

§ 6. PROSECUTIONS.] It shall be the duty of the commissioner to prosecute on complaint filed with the proper authorities, any person or corporation who shall violate any law now existing or which shall hereafter be passed on the subject of Canada and sow thistles and quack grass.

§ 7. REPORT OF COMMISSIONER.] The commissioner shall annually before the first day of December, make a written report to the supervisors of the township or to the county commissioners, as the case may be, which report shall be filed with the town clerk or the county auditor. The report so filed shall be publicly read at the next regular meeting of such board. Said report shall state:

First: Whether there are or are not any Canada or sow thistles or quack grass growing in the town or precinct.

Second: If any are growing, where and to what extent and when and how introduced.

Third: A detailed statement of his treatment of each infected tract with cost and result.

Fourth: He shall report such other matters, as may be required of him by the board of township supervisors, or by the county commissioners, as the case may be.

Fifth: He shall state his views on the further treatment of each infected tract and make such suggestions and recommendations as he may deem proper and useful.

§ 8. ENFORCEMENT OF ACT.] All officials charged with the enforcement of this act shall have the right and may go upon lands infected, or which they believe to be infected, with Canada or sow thistles or quack grass, for any purpose necessary for such enforcement. All officials charged with the enforcement of this act who neglect or refuse to carry out the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than fifty dollars.

§ 9. LAND OWNERS.] Any person, partnership, firm, corporation or association who after due notice, shall neglect or fail to cut down, dig up, destroy or take other certain means of exterminating Canada and sow thistles or quack grass, or prevent the same from going to

seed, that may at any time be growing upon any lands owned or controlled by them, shall be liable for each offense in a sum not less than twenty-five dollars, nor more than one hundred dollars, to be recovered in a civil action by the commissioner of noxious weeds and to cover the same into the general fund of the respective districts.

§ 10. EMERGENCY.] An emergency is hereby declared to exist in that there is no adequate law providing for the destruction of Canada and sow thistles and quack grass; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1909.

WHITE STONE BATTLEFIELD

CHAPTER 232.

[S. B. No. 93—Walton]

WHITE STONE HILL MEMORIAL PARK.

AN ACT Authorizing the Sale of a Certain Portion of the Land Granted by the United States Government for a Memorial Park and Burial Ground of Soldiers Killed at the Battle of White Stone Hill, and to Provide How the Moneys Arising from Such Sale Shall Be Expended.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AUTHORITY TO SELL GRANTED.] The trustees of the White Stone battle field commission are hereby empowered to sell to the highest bidder for cash at a price not less than the appraised valuation, to be fixed by the county board of appraisers of state land, provided, however, that said land shall not be appraised at a less value than seven dollars per acre, such portion of the southeast quarter of section number seven, the southwest quarter of section number eight, the northeast quarter of section number eighteen, and the northwest quarter of section number seventeen, all in township number one hundred and thirty-one, north, of range number sixty-five west, being the land granted by congress as the White Stone battle field, as said trustees shall deem advisable; provided, however, there shall be retained of said ground at least forty acres thereof.

§ 2. PROCEEDS MADE SPECIAL FUND.] The money arising from such sale shall be deposited in the state treasury as a special fund to be paid out as hereinafter provided.

§ 3. PROCEEDS, HOW EXPENDED.] The said trustees are hereby authorized to expend the money arising from such sale by fencing,

embellishing, parking and otherwise improving the said tract reserved from sale, and by the erection thereon of a suitable monument to the memory of those who died in the battle of the White Stone hill.

§ 4. BILLS, HOW AUDITED.] The bills for such expenditures shall be paid out on properly certified vouchers of the commission, when approved by the state board of audit.

Approved March 11, 1909.

PROPOSED AMENDMENTS TO CONSTITUTION

MINOT NORMAL SCHOOL.

[H. B. No. 6—Chatfield]

A CONCURRENT RESOLUTION Amending the Constitution of the State of North Dakota, Establishing and Locating a Normal School in the City of Minot, County of Ward.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

The following amendment to the constitution of the state of North Dakota, adopted by the tenth legislative assembly of the state of North Dakota, and by it referred to the eleventh legislative assembly of the said state for approval or rejection, is hereby agreed to and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

AMENDMENT.] Section 216 of the constitution of the state of North Dakota is amended to read as follows:

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law, namely:

First. A soldiers' home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A blind asylum, or such other institution as the legislative assembly may determine at such place in the county of Pembina as the qualified electors of the said county may determine at an election to be held as prescribed by the legislative assembly, with a grant of thirty thousand acres.

Third. An industrial school and school for manual training, or such other educational or charitable institution as the legislative assembly may provide, at the town of Ellendale, in the county of Dickey, with a grant of forty thousand acres.

Fourth. A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the

counties of McHenry, Ward, Bottineau or Rolette as the electors of the said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fifth. A scientific school, or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres.

Sixth. A state normal school at the city of Minot, in the county of Ward; provided, that no other institution of a character similar to any one of those located by this article, shall be established or maintained without a revision of this constitution.

Filed in the office of the secretary of state, March 16, 1909.

INCREASING NUMBER OF JUSTICES OF THE PEACE.

[H. B. No. 8—Schull]

A CONCURRENT RESOLUTION for an Amendment to the Constitution of the State of North Dakota, Creating the Office of Justice of the Peace, and Fixing and Providing for the Jurisdiction Thereof.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

The following amendment to the constitution of the state of North Dakota is agreed to and referred to the twelfth legislative assembly of the said state for approval, to be by said last mentioned legislative assembly submitted to the qualified electors of the state for approval or rejection in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

AMENDMENT.] Section 112 of the constitution of the state of North Dakota is amended so as to read as follows:

§ 112. The legislative assembly shall provide by law for the election of justices of the peace in each organized county within the state, but the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district courts and with all county courts in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The legislative assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

Filed in the office of the secretary of state, Februarv 24, 1909.

TERM OF OFFICE OF JUDGES SUPREME COURT.

[H. B. No. 44—Skulason]

A CONCURRENT RESOLUTION Amending the Constitution of the State of North Dakota, Relating to the Term of Office of the Judges of the Supreme Court.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

The following proposed amendment to section 91 of article 4 of the constitution of the state of North Dakota is referred to the legislative assembly to be chosen at the next general election in said state, to be by said last mentioned legislative assembly submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

AMENDMENT.] Section 91 of the constitution of the state of North Dakota is amended to read as follows:

§ 91. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be ten years, beginning on the first Tuesday after the first Monday in January of the year next following their election, and they shall hold their offices until their successors are duly qualified. This section shall not be construed as extending the term of office of the judges serving at the time of the adoption of this amendment, except as herein provided. The terms of office of the judges of the supreme court elected at the general election in 1910 shall be as follows: The one receiving the highest number of votes at such election shall hold his office for a term of ten years; the one receiving the next highest number of votes at such election shall hold his office for a term of eight years, and the one receiving the lowest number of votes at such election shall hold his office for a term of six years.

Filed in the office of the secretary of state, February 24, 1909.

SALE OF PUBLIC LANDS.

[H. B. No. 146—Putnam]

A CONCURRENT RESOLUTION Amending Section 158 of the Constitution of the State of North Dakota, Providing for the Purchase of and Sale of School and Public Lands.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

The following amendment to the constitution of the state of North Dakota, adopted by the tenth legislative assembly of the state of North Dakota, and by it referred to the eleventh legislative assembly of said state for approval or rejection, is hereby agreed to, and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

AMENDMENT.] Section 158 of the constitution of the state of North Dakota is amended so as to read as follows:

§ 158. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than five per cent per annum payable annually in advance; provided, that when payments are made before due they shall be made at an interest paying date, and one years' interest in advance shall be paid on all moneys so paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and all be at public auction and to the highest bidder after sixty days advertisement of the same in a newspaper in general circulation in the vicinity of the land to be sold, and also published in a newspaper published at the county seat, and also in a newspaper published at the seat of government. Such lands as shall not have been especially subdivided shall be offered in tracts of one-quarter section and those subdivided in the smallest subdivision. All lands designated for sale and not sold within two years after appraisal shall be re-appraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall, if the board of university and school lands so determine, become null and void. Any lands under the provisions of section 158 of the constitution of the state of North Dakota that have heretofore been sold may be paid for, except as to interest, as provided herein; provided, further, that any school or institution lands that may be required for townsite purposes, may be paid for at any time and patent issued therefor.

Filed in the office of the secretary of state, March 16, 1909.

SALE OF PUBLIC LANDS TO RAILROADS.

[S. B. No. 114—Purcell]

A CONCURRENT RESOLUTION to Amend Section 158 of the Constitution of the State of North Dakota, Governing the Sale of School Lands to Railroad Companies.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

The following proposed amendment to article 9, section 158 of the constitution of the state of North Dakota, is referred to the legislative assembly to be chosen at the next general election in the state

of North Dakota, to be by said last mentioned legislative assembly submitted to the qualified electors of said state for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

AMENDMENT.] Article 9, section 158 of the constitution of the state of North Dakota, is amended so as to read as follows:

§ 158. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than five per cent per annum, payable annually in advance; provided, that when payments are made before due they shall be made at an interest paying date, and one year's interest in advance shall be paid on all money so paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the land to be sold, and one at the seat of government. Such lands as shall not have been especially sub-divided shall be offered in tracts of one-quarter section, and those sub-divided in the smallest sub-division. All lands designated for sale and not sold within two years after appraisal shall be re-appraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided, that the land contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall, if the board of university and school lands so determine, become null and void. Any lands under the provisions of section 158 of the constitution of the state of North Dakota that have heretofore been sold, may be paid for, except as to interest, as provided herein; provided, further, that any school or institution lands that may be required for townsite purposes, school house sites, church sites, cemetery sites, sites for other educational or charitable institutions, public parks, fair grounds, public highways, railroad right of way, or for other railroad uses and purposes, reservoirs for the storage of water for irrigation, drain ditches or irrigation ditches, and lands that may be required for any of the purposes over which the right of eminent domain may be exercised under the constitution and the laws of the state of North Dakota, may be sold under the provisions of this section, and shall be paid for, principal and interest, in full, in advance, at the time of sale, or at any time thereafter, and patent issued therefor, when principal and interest are paid.

Filed in the office of the secretary of state, March 11, 1909.

TERMINAL ELEVATOR.

[S. B. No. 71—Duis]

A CONCURRENT RESOLUTION Amending the Constitution of the State of North Dakota, Empowering the Legislative Assembly to Provide by Law for the Erection, Leasing, Purchasing and Operating Terminal Elevators in the States of Minnesota and Wisconsin, or Either.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

The following proposed amendment to the constitution of the state of North Dakota is referred to the legislative assembly to be chosen at the next general election in this state, to be by said last mentioned legislative assembly submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of section 202 of the constitution of the state.

AMENDMENT.] The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the states of Minnesota or Wisconsin, or both, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Filed in the office of the secretary of state, March 11, 1909.

MEASURES VETOED

AID TO G. A. R.

[S. B. No. 108—Kennedy]

AN ACT Making Appropriation in Aid of the Department of the "Grand Army of the Republic" of the State of North Dakota, for the Purpose of Enabling it to Prepare, Issue and Distribute Its General and Special Orders and the Proceedings of the Department, and Providing for Keeping Copies of the Same on File in the State Library, at Bismarck, North Dakota, and for Expenses Incurred at State and National Encampments.

VETO.

Bismarck, March 4, 1909.

To the Honorable, the Senate of the Eleventh Legislative Assembly:

It is with great reluctance that I return without my approval senate bill number one hundred and eight, being an act making an appropriation in aid of the department of the Grand Army of the Republic of the state of North Dakota, for the purpose of enabling it to prepare, issue and distribute its general and special orders, and the proceedings of the department, and providing for keeping copies of the same on file in the state library at Bismarck, N. D., and for the expenses incurred at state and national encampments.

The patriotic motives inspiring the passage of this law are most worthy and meet with my heartiest approval, for the Grand Army is, indeed, a grand army of veterans, who, nearly half a century ago, risked their lives in defence of their country; who have since contributed so much to what that country is today, and who in a few years will live only in the memory of a grateful people.

We owe them a debt of gratitude that we can never fully pay. They are entitled to every consideration at our hands, and because of the respect and reverence, and the debt of gratitude that we owe them, I have labored to reconcile this measure with section 185 of the constitution, and I have failed.

Section 185 of the constitution provides that the state shall not make donations to or in aid of any individual, association or corporation, except for the necessary support of the poor. The Grand Army is an association such as is mentioned in section 185, and this appropriation is not for the support of the poor, but is to aid this organization to prepare, issue and distribute its general and special orders and the proceedings of the department, and providing for keeping copies of the same on file in the state library at Bismarck, N. D.,

and for expense incurred at state and national encampments. These purposes are not for the support of the poor, but are in aid of such an organization as is mentioned in the constitution, and come clearly within its inhibition. This section 185 should be amended so that such organizations as the Grand Army might receive assistance from the state.

Respectfully submitted,
JOHN BURKE,
Governor.

PURCHASE OF FORT CLARK.

[S. B. No. 254—Crane]

AN ACT Making an Appropriation Which Will Permit the State Historical Society of North Dakota to Acquire Title to Certain School Lands Within This State, Having a Historical Value.

VETO.

Bismarck, March 4, 1909.

To the Senate:

GENTLEMEN: I return you herewith senate bill number two hundred and fifty-four, being an act making an appropriation for the purchase of a Mandan Indian village on the upper Missouri river in this state, without my approval, for the reason that it is now apparent that the appropriation bills passed, and those that will in all probability pass this legislative assembly, will exceed the revenue of the state, and in my judgment there is no necessity for the purchase of this Indian village at this time.

Very respectfully,
JOHN BURKE,
Governor.

STATE BOARD OF CONTROL.

[H. B. No. 327—Atwood]

AN ACT to Create a State Board of Control, and to Provide for the Management and Control of the Soldiers' Home; the Charitable, Reformatory and Penal Institutions of the State, and to Provide for Supervisory Powers Over the State Educational Institutions, and to Make an Appropriation Therefor, and For the Defining of Certain Offenses and Providing Penalties Therefor.

VETO.

Bismarck, March 17, 1909.

To the Secretary of State:

I file herewith house bill No. 327, an act to create a state board of control to provide for the management and control of the soldiers' home and other institutions in this state, without my approval, for the reason that the conflicting provisions in this act leave the time of its taking effect indefinite and uncertain.

Section one of the act says that the governor shall, before the adjournment of the twelfth legislative assembly, nominate and ap-

point, with the consent of the senate, three electors as members of a board to be known as a board of control of state institutions. It further provides that the governor shall fill all vacancies on the board when the legislative assembly is not in session. Section eight provides that the board of control shall, within ten days after appointment and qualification, organize and assume the duties vested in said board, but shall not exercise full control of the institutions until July 1, 1911. Section nine provides that the board of trustees now charged with the government of such institutions shall, on and after July 1, 1911, have no further legal existence, and that all trustees now in office shall continue in office until July 1, 1911, at which time the management and control of such institutions shall cease to exist in such boards and shall become vested in the board of control, which board is authorized at said time, viz., July 1, 1911, to assume and exercise all the powers heretofore vested in or exercised by the several boards of trustees. Section eleven provides that the board, by a committee, or its secretary, or a woman duly appointed, shall visit the hospital for the insane once each month, and in such visits shall be vested with the powers now granted any visiting committee or board, and further provides that all visiting committees to the hospital for the insane are abolished and the members relieved from further duty upon the passage of this act. Section twelve requires the board to make a biennial report to the governor and a regular biennial report to the legislature, covering the biennial period ending June thirtieth, preceding the regular session of the legislative assembly and made not later than November fifteenth in the year preceding the meeting of the legislative assembly.

Section fourteen requires a uniform system of records and accounts, and for the purpose of establishing such system of accounts the board is authorized to employ experts to inaugurate in the institutions on the first day of July, 1909, the most modern and complete method of accounts, and further provides that the board shall within six months after the passage of this act, determine the kinds and quantities of provisions and supplies for the several institutions subject to its charge. Section fifteen, following, and apparently in the present tense, provides for biennial estimates of special appropriations to be appropriated for the use of the institutions.

Section sixteen, relating to suggestions in the report to be made to the legislative assembly, and sections seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two are all apparently in the present tense and in perfect harmony with the specific instructions in section fourteen to the board to establish a system of accounts in said institutions on July 1, 1909, and to determine the kinds and quantities of provisions and supplies for such institutions within six months after the passage of this act.

The next conflict appears in section twenty-three, which provides that the chief executive officer of each institution now in charge of

the several institutions holding for a definite term shall continue in office until the expiration of such term. All other superintendents, wardens or other chief executive officers shall hold office until July 1, 1911, and further provides that the superintendents, wardens or other chief executive officers of the institutions named may be removed by the board for misconduct, neglect of duty, incompetency, or other proper cause, thus apparently giving to the board of control authority over those who are now executive officers in these different institutions. Sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty-four are in harmony with section fourteen, while section thirty-five expressly provides that the board shall, prior to July 1, 1909, and annually thereafter, fix, with the written approval of the governor, the annual monthly salaries of all the officers and employes in the several institutions, except such as are fixed by the legislative assembly, the board shall classify the officers and employes, and the schedule of wages so fixed shall become operative on July first of each year.

Section thirty-six provides that the local treasurers shall be relieved of their duties on July 1, 1911, and such local treasurers shall account to the proper authorities for all moneys, and failing to account to the state treasurer on July 1, 1909, such failure shall be reported by the state treasurer to the attorney general for action. The remaining sections of the bill are apparently in the present tense and in harmony with the provision requiring the present treasurers to account to the state treasurer before July 1, 1909, and to the other express directions to the board on or before July 1, 1909.

If I were to sign this bill we would have a law requiring the governor to send the names of the members of this board to the twelfth legislative assembly; giving the governor power to appoint members of the board of control during vacation; giving the governor the power to remove members with the advice and consent of the senate while in session and to suspend members of the board in vacation, and to fill all vacancies by appointment during vacation; requiring the board to meet, organize and assume the duties vested in said board within ten days after appointment, and not allowing them to exercise full control until July 1, 1911; maintaining the present trustees of all of said institutions, viz.: the soldiers' home, and charitable, reformatory and penal institutions of the state, in office until July 1, 1911; abolishing visiting committees appointed to visit the insane asylum upon its passage, and providing that said board, by a committee, its secretary, or a woman appointed by the board of control, shall visit said institution in place of the regular visiting committee; providing that the board of control shall install in such institutions a uniform system of records of accounts on July 1, 1909, and within six months after the passage of this act determine the kinds and quantities of provisions and supplies for the several insti-

tutions; and providing that certain executive officers of said institutions shall serve out their terms and that others shall hold until July 1, 1911, and giving the board of control power to remove them; requiring the board of control to fix salaries of all officers and employes in the several institutions prior to July 1, 1909, and annually thereafter; abolishing the office of local treasurer on July 1, 1911, and requiring such local treasurer to make report to the state treasurer on July 1, 1909.

This law passed without the original emergency clause, and there is no express provision as to when it shall take effect. Neither is there any express provision requiring the present governor to appoint, or preventing him from appointing, a board of control during vacation and before the first of July, 1909. Section one contains a general provision giving the governor the power to fill vacancies when the legislature is not in session.

Conflicting provisions in the law are always construed so as to harmonize and give effect to every part of the law. Under this rule, there is only one construction that will harmonize the conflicting provisions of this law, viz., that the law goes into effect on the first day of July, 1909, the usual time provided in the constitution for laws without the emergency clause; that the governor has the power to appoint when the legislature is not in session and before the first of July, 1909, so as to give the board an opportunity to comply with section eight by organizing within ten days after their appointment and to comply with the provisions of section fourteen, requiring them to install in each of said institutions a system of bookkeeping on July 1, 1909, as well as an opportunity to comply with all of the other duties charged under the law. In other words, that the board of control should be in existence from and after July 1, 1909, to perform the several duties required by them under the law, but should not have full control until July 1, 1911,—the present boards of trustees remaining in office in the meantime and performing all of the duties relative to the management of said institutions not especially made the duty of the board of control.

While this construction would harmonize the conflicting provisions of the law, it is an unreasonable construction, for it is hardly possible that the legislative assembly intended that these different institutions should be managed by two boards until July 1, 1911. This would be a very expensive and extravagant experiment and might involve a conflict in the authority of the board of trustees and the board of control.

The change contemplated in this law is a most important one to the people of this state. It involves the care of the unfortunate and the expenditure annually of hundreds of thousands of dollars, and when it is made, as it should be, it should be under a law more definite and certain.

JOHN BURKE,
Governor.

LEGISLATIVE DRAFTING BUREAU.

[S. B. No. 276—Koffel]

AN ACT to Establish a Legislative Drafting Bureau in Connection With the Legislative Reference Department of the State Library Commission.

VETO.

Bismarck, March 18, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 276, an act to establish a legislative drafting bureau in connection with the legislative reference department of the state library commission, without my approval.

This bill would create a drafting bureau, operating under the direction and control of the legislative reference department of the state library commission. It would give to the library commission the power to employ three persons learned in the law, who would constitute said legislative drafting bureau, and the power to employ, without limit, stenographers and clerks. The library commission is required to appoint the members of this legislative drafting bureau on or about the fifteenth day of December of each year, immediately preceding the session of the legislature, and the said drafting bureau would be required to be in continuous session from and after their appointment until the last day of the regular session. The drafting bureau is to be provided with office rooms in the capitol building, furnished in the same manner as other offices in the capitol are furnished.

The act makes it the duty of the drafting bureau to draft and formulate all bills and resolutions, the subject matter, object and the general outlines of which may be submitted by any member of the legislative assembly, and it is further made the duty of the drafting bureau to draft and formulate such matter into bills and resolutions, and it further provides that the bills shall be "couched in clear, concise and terse English and in legal form," and when so drawn shall have endorsed thereon "Approved by the legislative drafting bureau," and turned over to the member at whose request such bill or resolution was drawn.

It further provides that no bill or resolution not drawn, drafted or formulated by said legislative drafting bureau, or by it approved as to form, shall be printed until after the same has been reported on favorably.

My objections to this bill are:

First: There are no rooms in the capitol building that could be fitted up for such drafting bureau and its stenographers and clerk, as provided for in section four of this act. In fact, we have not room at the present time for the legislative reference library.

Second: There will be in the next legislative assembly forty-nine senators and one hundred and three representatives, or one hun-

dred and fifty-two members of the legislative assembly, among whom there ought to be no difficulty in finding a sufficient number to pass upon the form and matter of all bills. This drafting bureau has no discretion, except as to the form in which the bill is drawn. It is made its duty to receive all matter that may be presented and draft it into legal form.

Third: There is no limit to the number of stenographers and clerks that may be employed by the library commission, and there is no provision that the clerks and stenographers so employed should in any way dispense with the army of clerks and stenographers always appointed by the house and senate.

JOHN BURKE,
Governor.

HAWKERS AND PEDDLERS.

[H. B. No. 159—Wolbert]

AN ACT Entitled an Act to Amend Section 2206 of the Revised Codes of the State of North Dakota for the Year 1905, Relating to the Fees to be Paid by Hawkers and Peddlers.

VETO.

Bismarck, 19, 1909.

To the Honorable, the Secretary of State:

I file herewith house bill No. 159, an act entitled "an act to amend section 2206 of the revised codes of the state of North Dakota for the year 1905, relating to the fees to be paid by hawkers and peddlers," without my approval for the reason that the same is in conflict with section 61 of the constitution, which provides that no bill shall embrace more than one subject, which shall be expressed in its title.

This act purports to amend section 2206 of the revised codes of the state of North Dakota for 1905. Said section 2206 is section 3 of chapter 165 of the laws of 1903, being an act taxing the occupation of hawkers and peddlers, regulating the license of persons engaged in such occupation, increasing the ordinary county revenue by such taxation, and prescribing penalties for violation of its provisions. Section one of this act provides that "it shall be unlawful for any person to travel from place to place in any county of this state, for the purpose of carrying to sell, or exposing, or offering to sell, barter or exchange any goods, wares or merchandise, or any other property whatever, without first obtaining a license therefor from the auditor of said county." There is no definition of hawkers or peddlers in the laws of this state, other than this definition in the first section of chapter 165 of the laws of 1903; viz: persons travelling from place to place in any county of this state for the purpose of carrying to sell, or exposing, or offering to sell, barter or exchange, goods, wares, merchandise or any other property; and

hence no person is a hawker or peddler under the laws of this state, unless his occupation brings him within the provisions of section one of said act. Section two of the act requires each person desiring to obtain a license as a peddler to make application to the county auditor of the county in which he desires to peddle, which application shall state whether the applicant desires to travel as a peddler on foot, or with one or more horses or other beasts of burden. The very language of the application shows that the law is to apply only to those who travel and sell their wares while travelling, either on foot or with one or more horses or beasts of burden.

Section three, that part of chapter 165 of the session laws of 1903 which this act purports to amend, simply regulates the fee that the applicant for the license shall pay, and is restricted to the persons mentioned in sections two and one, and in the title of the act, viz.: hawkers and peddlers.

In this act, however, which purports to amend chapter 165 of the laws of 1903, a new occupation is introduced and taxed, viz.: that of the transient merchant, trader or dealer, and not only does this act impose a tax upon the transient merchant; but also grants the power to cities and towns to tax such transient merchants.

The amendment is as follows: "§ 1. Section 2206 of the revised codes of 1905, is amended to read as follows: Fees for Licensing.] Each applicant, before he shall be entitled to such license, shall pay into the treasury of such county, when his application is made, the following sums respectively, as and for the taxes due from him on account of the pursuit of the occupation of peddling, towit: If for a license to travel on foot the sum of twenty dollars; if for a license to travel and carry his goods with a single horse or other beast carrying and drawing the burden, the sum of fifty dollars; if for a license to travel and carry with a vehicle drawn by two horses or animals the sum of one hundred dollars; if for a license to travel and carry his goods with a vehicle or carriage drawn by more than two horses or animals or propelled in any other manner, the sum of one hundred and twenty five dollars; and if he intends to travel as a transient merchant, trader or dealer, two hundred dollars; provided, that no such applicant taking license as such transient merchant, trader or dealer, shall in addition to the amount paid for such license also pay to the authorities of the city, town or village where he may sell or offer for sale any goods, wares or merchandise a sum not exceeding twenty-five dollars per day for each day that such person may be engaged in the selling of any such goods, wares or merchandise, to be determined by ordinance or resolution of the town, city or village where he may engage in the business aforesaid, which ordinance or resolution shall provide when and in what manner such per diem shall be paid; provided, further, that each license issued under the provisions of this act shall be numbered and that such number shall be displayed in figures

on the vehicle in which the peddler travels. Such license shall authorize the holder thereof to pursue within said county the business of hawking or peddling in the manner set forth in said license for a period of one year from the date of its issue and no longer."

This very amendment makes a distinction between the hawker and peddler and the transient merchant, in this, viz.: it requires the transient merchant to pay a license of two hundred dollars and in addition requires him to pay any such license as any city or town may provide by ordinance not exceeding the sum of twenty-five dollars per day. It is very plain that this provision is intended to apply to the merchant who sells his goods and wares in a store building the same as other merchants, but who moves his stock from one town or city to another town or city; and the title of the act is not broad enough to include the provisions of this act relating to transient merchants, unless the transient merchant is a hawker and peddler, or comes within the provisions of section one of chapter 165 of the laws of 1903.

In the case of Carrollton vs. Bazette, 31 Lawyers Reports Annotated, on page 527, the court clearly makes a distinction between hawkers and peddlers and transient merchants, as follows:

"Appellee contends that he was not an itinerant merchant within the meaning of the statutes and the ordinance. He insists that an itinerant merchant and a peddler mean the same thing. We do not think so. Neither the statute nor the ordinance has furnished any definition. The word 'merchant' has a well known meaning, but whether a particular trader is a merchant or not, might under the facts of the particular case be somewhat difficult to determine. But it cannot be doubted that appellee was a merchant. He opened a store, stocked it with various articles of merchandise and sold as other merchants do, and the only difference, aside from selling sometimes at auction, was that his business was not permanent, in the particular city or village in which, for the time, it was carried on. It was not intended to be permanent. It was intended to be and was transitory. He took his stock of goods from city to city, sold his goods and transacted business as a merchant for a few weeks only in each place, and we cannot conceive of a more appropriate designation as applied to his case than that of itinerant merchant."

Case of Newcastle vs. Cutler, 15 Penn. It is held that a hawker or peddler is an itinerant or travelling trader who carries goods about in order to sell them, in contradistinction to a trader who sells at a fixed place.

"A peddler or hawker within the general accepted meaning of the word is simply a retail dealer who carries his merchandise with him, travelling from place to place or from house to house." 21 Cyclopedia of Law, page 367.

It is clear from the title to the original act and the first section thereof, that it intended to apply only to such persons, viz., hawkers and peddlers. In the language of section one, "it shall be unlawful

for any person to travel from place to place in any county in this state for the purpose of carrying to sell, exposing, or offering to sell, barter or exchange any goods, wares or merchandise or any other property whatever, without first obtaining a license therefor from the auditor of said county." This language is intended to define hawkers and peddlers. It does not include transient merchants. The title does not include transient merchants. It applies only to hawkers and peddlers, terms which are synonymous under the decisions and under our statutory definition; while the statute clearly makes a distinction between the hawker and peddler and the transient merchant. The hawker and peddler is defined and regulated by chapter 165 of the session laws of 1903, and the transient merchant defined by chapter 237 of the laws of 1907. Under this later act, the transient merchant is defined as one who engages in the vending or sale of merchandise at any place in this state temporarily and who does not intend to become and who does not become a permanent merchant of such place. This definition is in harmony with the decisions of the courts defining transient and itinerant merchants.

Then, it follows, that as a transient merchant is not a hawker or peddler, the amendment provided for in this act cannot be made a part of chapter 165 of the laws of 1903, without redrawing the entire law and amending the title so as to make the occupation of hawkers and peddlers and transient merchants the same under the law.

My attention has been called to chapter 201, page 426 of the session laws of South Dakota for the year 1907, which act is practically the same as this act; but the law it purports to amend is not the same as the North Dakota law that this act purports to amend. The South Dakota law amended, is chapter 190 of the session laws of 1903, an act defining peddlers, requiring them to take out a license and fixing the fee therefor. Section one defines peddlers and includes transient merchants. That is, a transient merchant is declared to be a peddler. In other words, the laws of South Dakota make no distinction between peddlers, hawkers and transient merchants, so that the amendment to the South Dakota law is not vulnerable to these objections. The note of the secretary of state of South Dakota, at the bottom of the page, showed, however, that the governor of South Dakota allowed the amendment to become a law without his signature.

That portion of this act granting to cities and towns the power to tax transient merchants by ordinance or resolution is not expressed in nor germane to any part of the title; and it follows that all the matter in this act relating to transient merchants and the power granted to cities and towns to tax transient merchants by ordinance or resolution, not being expressed in the title nor germane to any part of it, is therefore unconstitutional and void.

JOHN BURKE,
Governor.

GEOLOGICAL SURVEY.

[H. B. No. 292—Duncan]

AN ACT to Amend Section 1129 of the Revised Codes of North Dakota for the Year 1905, Relating to the Agricultural and Geological Survey and Appropriation Therefor.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith house bill No. 292, a bill to amend section 1129 of the revised codes of North Dakota, without my approval, for the reason that this act makes a standing appropriation of fifteen hundred dollars annually, and the revenues of the state will not justify the increase. The appropriations have exceeded the revenues.

JOHN BURKE,
Governor.

ASSESSMENTS FOR DRAINAGE.

[H. B. No. 245—Grant]

AN ACT to Appropriate Money for the Use of the Board of University and School Lands in the Payment of Assessments for Benefits Made for Drainage Purposes Against Unsold Common School and Institution Lands Within the State.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith house bill No. 245, without my approval, for the reason that it appropriates without limit moneys in the state treasury for the payment of assessments for benefits made for drainage purposes against unsold common school and institution lands, for the reason that every cent of the revenues that will go into the treasury for the next two years is already appropriated—even in excess of the revenues—and there will be no money to expend under the provisions of this bill.

JOHN BURKE,
Governor.

AID TO HIGH SCHOOLS.

[S. B. No. 120—Cashel]

AN ACT to Amend and Re-enact Sections 1034, 1035 and 1036 of the Revised Codes of 1905, Relating to Education, as Amended by Chapter 99 of the Session Laws of 1907.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 120, without my approval, same being an act to amend sections 1034, 1035 and 1036 of the revised

codes of 1905, relating to education, for the reason that this bill increases the state aid in the sum of $5,000 per year. The disapproval of this bill leaves the appropriation for the high schools of the state at $45,000 per year under the old law, and the revenues of the state do not warrant any increase.

JOHN BURKE,
Governor.

FARMERS' INSTITUTE ANNUAL.

[S. B. No. 221—Plain]

AN ACT to Provide for the Printing and Distribution of Farmers' Institute Annuals and Making an Appropriation Therefor.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 221, being an act to provide for the printing and distributing of farmers' institute annuals, and making an appropriation therefor, without my approval, for the reason that the revenues of the state will not justify the appropriation made therein.

JOHN BURKE,
Governor.

PUBLIC PRINTING.

[S. B. No. 261—Albright]

AN ACT to Amend and Re-enact Section 76 of the Revised Codes of 1905, as Amended by Chapter 186 of the Laws of 1907, Prescribing the Duties and Authority of the Commissioners of Public Printing, and Making an Appropriation for Public Printing and Binding.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 261, without my approval, for the reason that this bill increases the appropriation for public printing ten thousand dollars per annum, and the appropriations exceed the revenues of the state.

JOHN BURKE,
Governor.

TREASURER OF PENITENTIARY.

[S. B. No. 339—Pierce]

AN ACT to Provide for Making the State Treasurer, and His Successors, the Treasurer of the State Penitentiary and Twine Plant, and Defining His Duties in Relation Thereto and Relating to the Duties and Powers of the State Emergency Board in Connection Therewith.

VETO.

Bismarck, March 20, 1909.

To the Honorable, the Secretary of State:

I file herewith senate bill No. 339, without my approval, for the reason that this act authorizes the emergency board to make temporary withdrawals of money from the state treasury to replenish the twine plant operating fund, and in the sum of fifty thousand dollars, without making an appropriation therefor.

The constitution especially provides that no money shall be paid out of the state treasury except upon an appropriation, and while this money is withdrawn only temporarily, it is to be used in the business of making twine in the penitentiary, and while there is a provision for its return, in case of loss it could not be returned.

Every cent of money that comes into the treasury for the next two years is already appropriated for specific and definite purposes, and the legislative assembly has not the power, under the constitution, to authorize the emergency commission to take money out of the treasury that is appropriated for other purposes, to be used in the twine plant, and cannot authorize the temporary withdrawal of money to be used in business without making an appropriation therefor.

JOHN BURKE,
Governor.

SCHOOL LANDS FOR TOWNSITE PURPOSES.

[H. B. No. 131—Traynor]

AN ACT Making It the Duty of the Board of University and School Lands to Accept Payment In Full and Issue Patent for Any School or Institution Lands Required by Any Person, Firm or Corporation Holding Contract Therefor, for Townsite Purposes.

VETO.

Bismarck, March 16, 1909.

To the Secretary of State:

I file herewith without my approval house bill No. 131, being an act "making it the duty of the board of university and school lands to accept payment in full and issue patent for any school or institution lands required by any person, firm or corporation holding a contract therefor, for townsite purposes."

This bill provides that any person holding a contract for the sale of any school or institution lands, regularly issued by the authority of the board, can have the said lands platted as a townsite or addition, and on satisfactory evidence that such land is actually required for townsite purposes and that the plat thereof has been duly filed, may apply to the board for a patent to said land, and it is made the duty of the board to accept payment in full of the balance due the state for such land and interest to date of payment and to issue a

patent therefor; which provisions are clearly in conflict with section 158 of the constitution.

Section 158 provides that no lands shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: one-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per cent payable annually in advance.

The terms of sale, and of payment for school and institution lands sold, are expressly and definitely provided for in the constitution and cannot be changed by legislative enactment without an amendment to the constitution.

JOHN BURKE,
Governor.

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